

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
14 DAG 07101

NICHOLAS FROST D/B/A
TOP DOG KENNEL

Petitioner,

v.

N.C. DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES
VETERINARY DIVISION

Respondent.

SETTLEMENT AGREEMENT

RECITALS

Nicholas Frost (the "Petitioner") and the North Carolina Department of Agriculture and Consumer Services (the "Respondent") desire to fully and finally settle this and all other disputes and controversies surrounding the Petitioner's operation of a boarding kennel, and desire to affect a full and final settlement solely in order to avoid the burden and expense of continued litigation.

WHEREAS, at all times pertinent to this matter the Petitioner operated a boarding kennel, Top Dog Kennel ("TDK" or the "kennel") licensed pursuant to N.C. Gen. Stat. § 19A-28, license number 10,386.

WHEREAS, on July 16, 2014, Mrs. James Burns called TDK to arrange for the family dog, a Chihuahua, "Dulcey," to be boarded there from July 18 to July 21, 2014.

WHEREAS, Mr. Burns dropped Dulcey off at TDK at about 3:30 p.m., Friday, July 16,

2014, at TDK and informed the receptionist that he would pick up Dulcey on the following Monday.

WHEREAS, Mr. Burns declined the extra service of having Dulcey walked.

WHEREAS, On Monday, July 21, 2014, at about 4:31 p.m., Mr. Burns was driving from Asheville to TDK to pick up Dulcey.

WHEREAS, Mr. Burns received a telephone call at 4:31 p.m. from the Petitioner, who said that he had Dulcey in his office at TDK. There was also a Kerry Blue Terrier ("Terrier") in the office in a crate, to be groomed.

WHEREAS, the Petitioner said that he left the office. When he returned he found that the Terrier had "broken out of his crate" and killed Dulcey.

WHEREAS, Mr. Burns ended the call and then called the Petitioner back at 4:36 p.m., requesting that the Petitioner explain what happened again. The Petitioner repeated what he had told Mr. Burns. When Mr. Burns asked the Petitioner whether he still had Dulcey's body or had he taken her to a veterinarian, the Petitioner replied that Dulcey was dead when he found her. Mr. Burns informed the Petitioner that he was coming to pick up Dulcey and to please wrap up the body. Mr. Burns told the Petitioner that this was the second time that one of his pets has been attacked while at TDK.

WHEREAS, Mr. Burns and his son arrived at TDK at 6:00 p.m. Mr. Burns asked the Petitioner to explain again what happened to Dulcey because he thought a terrier was a small dog. The Petitioner said that the Terrier was "about hip high."

WHEREAS, the Petitioner took Mr. Burns to the TDK's grooming area adjacent to the front lobby and office. The Petitioner showed Mr. Burns the dog crate the Terrier escaped from

when it killed Dulcey. Mr. Burns saw no damage to the crate. The Petitioner said he “didn’t know what happened, (he) didn’t know if (he) hadn’t latched the door properly or...”

WHEREAS, Respondent’s Inspector Jay Blatche arrived at TDK on July 24, 2014, and met with employee Michael Boggs.

WHEREAS, Inspector Blatche reviewed the Terrier’s and Dulcey’s records and found Dulcey’s rabies vaccination had expired on December 13, 2013.

WHEREAS, Inspector Blatche called the Petitioner by telephone. The Petitioner told Mr. Blatche that he left Dulcey in the office and left the Terrier, Layla, in the crate in the grooming area next to the office, when he left the office. When he returned to the office he found Dulcey dead and Layla out of the crate. This occurred at about 2:30 p.m.

WHEREAS, Inspector Blatche asked the Petitioner if he had informed Layla’s owner that Layla had killed another dog. The Petitioner replied that he had done so.

WHEREAS Inspector Blatche asked the Petitioner if he had informed Layla’s owner that the dog Layla killed was not current on its rabies vaccination. The Petitioner answered that he did not know Dulcey’s rabies vaccination was not current.

WHEREAS, the Petitioner said that TDK does not use a written contract or agreement for dog owners to indicate that their dogs may come into contact with other animals. It is TDK’s policy to ask owners whether they want their animals to play or be walked with other animals.

WHEREAS Inspector Blatche informed the Petitioner:

- i. that all animals at TDK must be secure when unsupervised;
- ii. that all animals at TDK must be current on their rabies vaccination;
- iii. that TDK’s facility must have a written contract or agreement that allows

animals to come in contact with other animals; and

- iv. that all animal bites must be reported to the local animal control immediately.

WHEREAS, the Respondent imposed a civil penalty upon the Petitioner for Petitioner's failure to comply with minimum state standards for the maintenance and operation of a licensed boarding kennel.

WHEREAS, the Petitioner has filed with the North Carolina Office of Administrative Hearings a Petition for a Contested Case Hearing.

WHEREAS, the parties desire to resolve this matter without further litigation.

NOW THEREFORE, the parties agree as follows:

1. Petitioner agrees that, when Respondent signs this Agreement, Petitioner shall authorize the Respondent to file on his behalf a voluntary dismissal of his Petition for a Contested Case Hearing, with Prejudice, with the N.C. Office of Administrative Hearings.
2. Petitioner agrees and the Respondent agrees to accept from Petitioner, the sum of six hundred dollars (\$600.00), to be paid in three equal monthly payments of \$200.00, with the first payment due on December 1, 2014. Respondent further agrees that said payments shall be deemed made on time if Petitioner mails them, US Postal Service First Class Mail, postage prepaid, postmarked no later than 5:00 o'clock p.m. on the date due.
3. The Petitioner agrees to execute and to provide to the Respondent the attached Confession of Judgment which the parties agree shall not be filed with the Clerk of Court in Buncombe County unless Respondent's duly authorized officers, agents or employees find that Petitioner has:

- a) violated a material provision of this Agreement; or
- b) committed a violation of Chapter 19A of the North Carolina General Statutes or subchapter 52J of Title II of the North Carolina Administrative Code.

4. The persons signing this Agreement represent that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties, the parties represent to each other that they have full power and all requisite authority to execute and perform this Agreement.

5. The parties agree to act in good faith in the implementation of this agreement.

6. The parties agree to bear their own attorneys fees and costs.

7. It is understood between the parties that this Agreement contains the entire agreement between the parties hereto regarding the matters set forth, and it supersedes all previous negotiations, discussions and understandings regarding such matters. Terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

8. The effective date of this Agreement will be the date on which it has been executed by all parties as shown on the signature lines below.


9. North Carolina law shall govern the interpretation and enforcement of this Agreement.

IN TESTIMONY WHEREOF, the parties have set their hands and seals on the dates indicated below:



Nicholas Frost
D/b/a Top Dog Kennel

Date: 11-28-14.

FOR RESPONDENT:


Barry H. Bloch
Assistant Attorney General
N.C. Department of Justice
ATTORNEY FOR RESPONDENT

Date: 12/2/2014


Dr. Patricia Norris, DVM
Director, Animal Welfare Section
North Carolina Department of Agriculture & Consumers Services

Date: 12/2/2014

A G R E E M E N T

PURSUANT TO N.C. General Statutes ("NCGS") § 150B-22 and § 150B-41(c), which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, this agreement (hereinafter the "Agreement") is made and entered into effective as of the 15th day of November 2018 by and between the North Carolina Department of Agriculture and Consumer Services ("NCDA&CS"), Veterinary Division, Animal Welfare Section ("AWS") and Caldwell County (hereinafter referred to as the "Petitioner" or the "County").

R E C I T A L S

WHEREAS at all times pertinent to this matter, Caldwell County Animal Care and Control Shelter ("the shelter") operated by Caldwell County was an animal shelter, registered pursuant to NCGS § 19A-26; and

WHEREAS, on October 3, 2018, the AWS issued a Notice of Violations and Assessment of Civil Penalty to the County, a true and correct copy of which is annexed to this Agreement as Exhibit A; and

WHEREAS, on October 3, 2018, AWS Director Patricia Norris met with Caldwell County Manager Stan Kiser and both parties agreed to reach a settlement of the Civil Penalty once the County had participated in the Veterinary Assessment training offered by AWS; and

WHEREAS, on October 30, 2018, County Manager Stan Kiser and Caldwell County Animal Control Officers and Animal Shelter staff attended the Veterinary Assessment training provided by AWS; and

WHEREAS, the Caldwell Animal Shelter has modified its procedures concerning the provision of veterinary care for injured animals impounded after normal operating hours; and

WHEREAS, the AWS and County continue to desire to fully and finally compromise and settle the Civil Penalty assessed on October 3, 2018; and

WHEREAS, the AWS and the County desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of further litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable

consideration, the receipt and sufficiency of which the parties hereby acknowledge, the AWS and the County agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by this reference as if fully set forth herein.
2. By its signature below, the Department of Agriculture hereby formally reduces the \$1,000.00 civil penalty it assessed against the County on October 3, 2018 to \$500.00.
3. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.
4. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.
5. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.
6. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.
7. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.
8. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:


THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION

By: 

Patricia Norris DVM, MS
Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: 11/15/2018

CALDWELL COUNTY

By: 

Stan Kiser
County Manager for Caldwell County

Date: 11/19/18

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 21 day of January 2016 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as the "Department of Agriculture"), and Columbus County Animal Control (hereinafter referred to as the "Petitioner" or "Columbus County").

R E C I T A L S

WHEREAS, on June 18, 2015, the Department of Agriculture issued a Notice of Violations and an Assessment of Civil Penalty to Columbus County, a true and correct copy of which is annexed to this Agreement as Exhibit A; and

WHEREAS, in its Notice of Violations, the Department of Agriculture found that:

1. on May 19, 2015, two female pit bull dogs were impounded at the animal shelter operated by Columbus County;
2. the shelter's impound records indicated that these two dogs had been surrendered by their owners;
3. the dogs' owner did not provide any proof of ownership to the shelter at the time of the dogs' impoundment;
4. the shelter's impound records indicate that the dogs were to be held by the shelter until 2:00 p.m. on May 22, 2015 in order to comply with the 72-hour minimum holding period;
5. the shelter's impound records indicated that one of these two pit bull dogs was euthanized on May 21, 2015;
6. the paperwork for the euthanized pit bull dog did not document that the euthanized pit bull dog had a serious illness or injury that would have justified the dog's euthanization prior to the expiration of the 72-hour minimum period;
7. the shelter's impound records indicated that the other pit bull dog was not euthanized and was released to its owner on May 21, 2015; and

WHEREAS, based on its findings, the Department of Agriculture alleged that Columbus County, either by act or omission, violated N.C. Gen. Stat. § 19A-32.1(a),(b)(l) and (b)(i); and

WHEREAS, based on its findings contained in the June 18, 2015 Notice of Violations, the Department of Agriculture assessed a civil penalty against Columbus County in the amount of \$5,000.00; and

WHEREAS, Columbus County disputes the Department of Agriculture's findings and allegations that Columbus County violated any statute or that it engaged in any improper conduct whatsoever; and

WHEREAS, pursuant to a Consent Agreement entered into on December 13, 2013, between Columbus County and the Department of Agriculture, the parties agreed that Columbus County Animal Control would "prepare and submit a written Standard Operating Procedure ("SOP") covering the intake and disposition of animals. The SOP shall be consistent with and reflect the requirements of the North Carolina Animal Welfare Act, N.C. Gen. Stat. §§ 19A-1 et. seq. . . ."; and

WHEREAS, in compliance with this Consent Agreement, Columbus County Animal Control prepared a written Standard Operating Procedure, doing so with the assistance and input of an official from the Department of Agriculture; and

WHEREAS, those Standard Operating Procedure provided, in pertinent part, as follows:

4. Aggressive Animals: When an animal is judged to be extremely aggressive and presents a significant danger to Animal Control Staff when feeding or cleaning, the Animal Control Shelter Manager may authorize euthanasia at an earlier time than would otherwise be dictated; and

WHEREAS, on January 13, 2014, the Columbus County Attorney submitted the Standard Operating Procedure to the Department of Agriculture for review and approval; and

WHEREAS, the Department of Agriculture did not express any objections to Columbus County regarding the Standard Operating Procedure. Consequently, Columbus County reasonably believed that the lack of comment or objection by the Department of Agriculture regarding the Standard Operating Procedure operated as an approval of and endorsement of these procedures. Consequently, Columbus County Animal Control operated pursuant to this Standard Operating Procedure under the reasonable belief that it was approved by the Department of Agriculture, and was otherwise in full compliance with State law, regulation and policy; and

WHEREAS, Columbus County contends that the following events took place with respect to the two female pit bull dogs in question:

1. On May 19, 2015, the dogs' owner called Columbus County Animal Control and requested that a Columbus County Animal Control Officer come and pick up the dogs, stating that the dogs were aggressive and vicious and that her family no longer wanted them.

2. A Columbus County Animal Control Officer immediately responded to the call and picked up the dogs from their owners' residence, doing so in the presence of and with the assistance of the owner. The owner personally placed the dogs in the Animal Control Officer's truck out of concern that the dogs might attack the officer. The Animal Control Officer personally observed the dogs in question to be exceedingly vicious and aggressive.
3. The dogs continued to exhibit vicious and aggressive behavior at the Columbus County Animal Shelter during the following two days. Prisoners working at the facility experienced great difficulty in feeding the animals due to their aggressive temperament and were nearly bitten on several occasions.
4. After two days of continuous and unprovoked vicious behavior, the Columbus County Animal Control Director determined that both dogs exhibited an extremely aggressive temperament such that they presented a serious threat to the safety of the staff of the Columbus County Animal Shelter and that they were otherwise unadoptable.
5. Consequently, the Columbus County Animal Control Director made the considered decision to euthanize the dogs based upon their extremely aggressive temperament. This decision was made in accordance with Paragraph 4 of the Standard Operating Procedures for Columbus County Animal Control, which as noted above, provides that "When an animal is judged to be extremely aggressive and presents a significant danger to Animal Control Staff when feeding or cleaning, the Animal Control Shelter Manager may authorize euthanasia at an earlier time than would otherwise be dictated." One of the dogs was humanely euthanized using authorized procedures on the morning of May 21, 2015. The dogs' owner returned to the Columbus County Animal Control Shelter and retrieved the other dog before it was euthanized; and

WHEREAS, Columbus County denies any wrongdoing or improper conduct and submits that it and its personnel acted at all times in good faith and in the reasonable belief that they were following procedures approved by the Department of Agriculture and otherwise in compliance with State law and regulations; and

WHEREAS, on August 10, 2015, Columbus County filed a Petition for a Contested Case Hearing against the Department of Agriculture in the North Carolina Office of Administrative Hearings (hereinafter referred to as the "OAH") in that contested case entitled *Columbus County Animal Control v. The North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section*, No. 15 DAG 05828 (hereinafter referred to as the "OAH Case"); and

WHEREAS, in summary, Columbus County alleged in its OAH Petition for a Contested Case Hearing, *inter alia*, that the Department of Agriculture had acted improperly and/or without lawful authorization in issuing to Columbus County the June 18, 2015 Notice of Violations and in assessing a civil penalty against Columbus County in the amount of \$5,000.00; and

WHEREAS, in its Prehearing Statement filed in the OAH Case, the Department of Agriculture denied the allegations made by Columbus County in its Petition for a Contested Case Hearing in the OAH Case; and

WHEREAS, subsequent to Columbus County's filing of its Petition for a Contested Case Hearing in the OAH Case, the parties entered into settlement negotiations and discussions and agreed in principal to settle their disputes on the following terms: (i) officials of the Department of Agriculture would meet with officials and representatives of Columbus County and all such officials and representatives would come to an agreement on what they collectively concluded are appropriate written policies and standard operating procedures for the Columbus County Animal Shelter; (ii) once officials and representatives of the Department of Agriculture and Columbus County reached an agreement on what they collectively concluded are appropriate written policies and standard operating procedures for the Columbus County Animal Shelter, Columbus County would memorialize those policies and procedures and include them in Columbus County's policy manual; (iii) once the matters summarized in sub-paragraphs (i) and (ii) were accomplished, the Department of Agriculture would formally waive the \$5,000.00 civil penalty it assessed against Columbus County on June 18, 2015; and (iv) once the matters summarized in sub-paragraphs (i), (ii) and (iii) were accomplished, Columbus County would file a Notice of Dismissal With Prejudice of its Petition for a Contested Case Hearing in the OAH Case; and

WHEREAS, all of the actions referred to in sub-paragraphs (i) and (ii) above have now been accomplished; and

WHEREAS, the Department of Agriculture and Columbus County continue to desire to fully and finally compromise and settle the OAH Case and all other disputes and controversies between them involving or arising out of the matters embraced by Columbus County's Petition for a Contested Case Hearing in the OAH Case; and

WHEREAS, the Department of Agriculture and Columbus County desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of further litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations

created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department of Agriculture and Columbus County agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by this reference as if fully set forth herein.

2. By its signature below, the Department of Agriculture hereby formally waives the \$5,000.00 civil penalty it assessed against Columbus County on June 18, 2015.

3. Within five (5) business days following the full and complete execution of this Agreement, Columbus County shall file a Dismissal with Prejudice of the OAH Case and shall serve a file-stamped copy of said Dismissal on counsel for the Department of Agriculture in the OAH Case.

4. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

5. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

6. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

7. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.


8. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.

9. The parties agree and acknowledge that neither side admits to any wrongdoing or improper conduct, and that this Agreement and the parties' entrance therein shall not constitute any indicia, evidence or determination that any party engaged in any wrongdoing or improper conduct. Moreover, the parties agree and acknowledge that the June 18, 2015 Notice of Violations, Assessment of Civil Penalty and the purported findings therein shall not have any effect -- preclusive, precedential, collateral estoppel, evidentiary, or otherwise -- in any other forum, proceeding or dispute.

10. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION


By: _____

Patricia Norris

Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: 1/21/2016

COLUMBUS COUNTY ANIMAL CONTROL

By: _____

WILLIAM E. CLARK

Columbus County Manager

Date: 1/15/16

Exhibit A

November 18, 2015 Notice of Violations
and Assessment of Civil Penalty



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

June 18, 2015

Columbus County Animal Control
Attn: Rossie Hayes
Shelter Manager
288 Legion Drive
Whiteville, NC 28472

UPS Tracking Number Signature Required

1Z 210 617 42 5607 5238

NOTICE OF CIVIL PENALTY

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF NORTH CAROLINA GENERAL STATUTES §§ 19A-32.1 (a) and (b) (1)

Dear Mr. Hayes:

Pursuant to N.C. Gen. Stat. § 19A-40 I am issuing this notice to you that Columbus County Animal Control is assessed a civil penalty of \$5,000.00, as provided in the enclosed Notice of Violations and Order.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing in the NCOAH to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, present your offer to me. I may be contacted by telephone at (919) 715-7111. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone 919/733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Norris', with a long horizontal flourish extending to the right.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Assessment Document

cc: R. Douglas Meckes, DVM, North Carolina State Veterinarian
Mr. Barry Bloch, Assistant Attorney General, N.C. Department of Justice
Ms. Tina Hlabse, General Counsel, NCDA&CS
Mr. Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF
COLUMBUS COUNTY ANIMAL
CONTROL

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) N. C. Gen. Stat. §§19A-32.1 (a) and (b) (1)

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director of the Animal Welfare Section ("AWS"), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

I. FINDINGS OF FACT

1. At all times pertinent to this matter Columbus County Animal Control ("CCAC" or the "shelter") is an animal shelter registered pursuant to N.C. Gen. Stat. §19A-26.
2. On May 19, 2015 two female pit bull dogs were impounded at the shelter.
3. The impound sheets indicate that the dogs had been surrendered by the owner of the dogs. No proof of ownership was provided at the time of impoundment.
4. The impound sheets indicate that the dogs were to be held until 2 PM on May 22, 2015 to fulfill the 72 hours minimum holding period.
5. The impound sheet for the euthanized dog documents the euthanasia as occurring on May 21, 2015.
6. The paperwork for the euthanized dog does not document a serious illness or injury to justify the euthanasia prior to the 72 hour minimal holding period
7. The impound sheet for the released dog documents the owner reclaim as occurring on May 21, 2015.

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, alleges that CCAC, either by act or omission, violated the following provisions of the N. C. General Statute 19A-32.1 (a), (b) (1) and (i). (See Appendix for text of cited General Statutes)

II. CORRECTIVE ACTIONS REQUIRED

CCAC shall develop written policies and procedures that detail the decision parameters for the euthanasia of animals as well as the required documentation. These policies and procedures must be in compliance with the N. C. Animal Welfare Act and the N. C. Administrative Code. These policies and procedures are to be provided to the AWS for review and approval within 7 days of receipt of this letter.

III. N. C. General Statute §19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6; 1998-215,s.3.)

The Director notes that Columbus County Animal Control Shelter was assessed a civil penalty for \$6,500.00 on November 26, 2013. That civil penalty was assessed for violation of N. C. General Statute §19A-32.1.

IV. DECISION

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, CCAC is assessed a civil penalty of: \$5,000.00 for violating N. C. Gen. Stat. §§19A-32.1 (a) and (b) (1).

\$5,000.00 TOTAL AMOUNT ASSESSED

6/18/2015
Date

Patricia Norris
Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

N. C. General Statutes §§19A-32.1 (a) and (b) (1)

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

(b) Before an animal may be euthanized or otherwise disposed of, it shall be made available for adoption under procedures that enable members of the public to inspect the animal, except in the following cases:

(1) The animal has been found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament.

(2) The animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 29th day of April 2016 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as the "Department of Agriculture"), and Rutherford County Animal Shelter (hereinafter referred to as the "Petitioner" or "Rutherford County").

R E C I T A L S

WHEREAS, on September 24, 2014, the Department of Agriculture issued a Notice of Violations and Assessment of Civil Penalty to Rutherford County, a true and correct copy of which is annexed to this Agreement as Exhibit A; and

WHEREAS, on November 25, 2014, Rutherford County filed a Petition for a Contested Case Hearing against the Department of Agriculture in the North Carolina Office of Administrative Hearings (hereinafter referred to as the "OAH") in that contested case entitled *County of Rutherford v. NC Department of Agriculture and Consumer Services*, No. 14 DAG 09337 (hereinafter referred to as the "OAH Case"); and

WHEREAS, in summary, Rutherford County alleged in its OAH Petition for a Contested Case Hearing, *inter alia*, that the Department of Agriculture had acted improperly and/or without lawful authorization in issuing to Rutherford County a Notice of Violations, Assessment of Civil Penalty dated September 24, 2014, and in assessing a civil penalty against Rutherford County in the amount of \$5,000.00, also on September 24, 2014; and

WHEREAS, in its Prehearing Statement filed in the OAH Case, the Department of Agriculture denied the allegations made by Rutherford County in its Petition for a Contested Case Hearing in the OAH Case; and

WHEREAS, subsequent to Rutherford County's filing of its Petition for a Contested Case Hearing in the OAH Case, the parties entered into settlement negotiations and discussions and agreed in principal to settle their disputes on the following terms: (i) Rutherford County would prepare a written policy approved by Dr. Patricia Norris, Director, Animal Welfare Section, North Carolina Department of Agriculture and Consumer Services and include the policy in the Rutherford County Animal Shelter Standard Operating Procedure Manual, stating that the Rutherford County Animal Shelter facilities must be cleaned twice a day in accordance with applicable Division of Animal Welfare ("DAW") regulations and that young animals must be fed two times a day, 365 days a year, in accordance with applicable DAW regulations; (ii) Rutherford County would provide a list of financial expenditures which show \$5,000.00 of

capital improvements made to the Rutherford County Animal Shelter after the date of the imposition of the civil money penalty; (iii) once the matters summarized in sub-paragraphs (i) and (ii) were accomplished, the Department of Agriculture would formally waive the \$5,000.00 civil penalty it assessed against Rutherford County on September 24, 2016; and (iv) once the matters summarized in sub-paragraphs (i), (ii) and (iii) were accomplished, Rutherford County would file a Notice of Dismissal With Prejudice of its Petition for a Contested Case Hearing in the OAH Case; and

WHEREAS, all of the actions referred to in sub-paragraphs (i) and (ii) above have now been accomplished; and

WHEREAS, the Department of Agriculture and Rutherford County continue to desire to fully and finally compromise and settle the OAH Case and all other disputes and controversies between them involving or arising out of the matters embraced by Rutherford County's Petition for a Contested Case Hearing in the OAH Case; and

WHEREAS, the Department of Agriculture and Rutherford County desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of further litigation,

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department of Agriculture and Rutherford County agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by this reference as if fully set forth herein.
2. By its signature below, the Department of Agriculture hereby formally waives the \$5,000.00 civil penalty it assessed against Rutherford County on September 24, 2014.
3. By no later than May 29, 2016, Rutherford County shall file a Dismissal with Prejudice of the OAH Case and shall serve a file-stamped copy of said Dismissal on counsel for the Department of Agriculture in the OAH Case.
4. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

5. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

6. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

7. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

8. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.

9. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION

By: 
Patricia Norris

Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: April 29, 2016

Signature of Rutherford County appears on the following page.

RUTHERFORD COUNTY SHERIFF'S OFFICE

By: Chris Francis
Chris Francis, Sheriff

Date: 5/12/2016

Exhibit A

September 24, 2014 Notice of Violations
and Assessment of Civil Penalty



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Steven Wells, DVM
Interim State Veterinarian

September 23, 2014

Rutherford County Animal Shelter
Attn: Lieutenant Leon Godlock
576 Laurel Hill Drive
Rutherfordton, North Carolina 28139

UPS Tracking:
1Z2A06172464641814

NOTICE OF CIVIL PENALTIES

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF ANIMAL WELFARE ACT, N.C. GENERAL STATUTE § 19A-40 AND TITLE 2, N.C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0201, .0202, .0204, .0205 & .0207

Dear Lieutenant Godlock:

Pursuant to N.C. Gen. Stat. § 19A-40 I am issuing this notice to you that Rutherford County Animal Shelter is assessed a civil penalty of \$5,000.00, as provided in the enclosed Notice of Violations and Order.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing in the NCOAH to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, present your offer to Dr. Steven C. Wells, Interim State Veterinarian, Veterinary Division, who may be contacted by telephone at (919) 733-7601. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Steven C Wells
Interim State Veterinarian
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714


Any questions about filing a petition may be directed to the Clerk of OAH by telephone 919/733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,


Steven C Wells, DVM
Interim State Veterinarian

Attachment: Assessment Document

cc: Mr. Barry Bloch, Assistant Attorney General
Ms. Tina Hlabse, Legal Affairs

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION

IN THE MATTER OF
RUTHERFORD COUNTY ANIMAL
SHELTER

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) Animal Welfare Act
) N.C. General Statute § 19A-40
) 2 N.C. Administrative Code 52J
) .0201, .0202, .0204, .0205, & .0207

Acting pursuant to N.C. Gen. Stat. § 19A-40, Dr. Steven C. Wells, Interim State Veterinarian, Animal Welfare Section, Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter Rutherford County Animal Shelter ("RCAS" or the "shelter") is an animal shelter registered pursuant to N.C. Gen. Stat. § 19A-26.
2. The Animal Welfare Section, NCDA&CS ("AWS") received a complaint that kittens had been left in RCAS' surrender enclosures, aka "drop boxes," over a holiday weekend in excessive heat without food or water. The complaint also alleged that the shelter outdoor enclosures were not cleaned on the Monday of the Labor Day holiday weekend.
3. During an inspection and investigation on September 3, 2014, Animal Welfare Section Inspector Jay Blatche ("Inspector Blatche") learned that Sheriff's Department Cpl. Jones was responsible for the animal shelter as on-call animal control officer ("ACO") on August 30 and 31, 2014.
4. Cpl. Jones could not state what times he was at the shelter to clean and feed the animals on August 30 and 31, 2014.
5. Cpl. Jones stated that the shelter was at nearly full capacity for cats and he locked the "drop boxes" during his weekend visit to the RCAS.
6. Cpl. Jones stated that, on Sunday, August 31, 2014, he euthanized four cats that appeared to be sick, cleaned the enclosures and fed the animals. He stated that he checked the "drop boxes" and these were empty.
7. Inspector Blatche determined that Deputy Sara Hartman was the on-call ACO and

responsible for RCAS on Monday, September 1, 2014. He interviewed Deputy Hartman. She stated she received a call that there were kittens in the drop boxes. She reported that she arrived after receiving that call, after 2:00 p.m. She removed the kittens from the drop box, fed the animals, and cleaned all of the enclosures except for the drop boxes and left hand outside enclosure. She stated she could not clean these enclosures because the water hose on that side of the building was inoperable. She reported that, on September 1, 2014, RCAS had 20 dogs and 49 cats. She reported that she left RCAS at approximately 4:00 p.m.

8. Inspector Blatche determined that RCAS has no special written procedure for cleaning and animal feeding for weekends or holidays. The ACO who is "on-call" is authorized to perform these duties once per weekend day or holiday even when there are puppies or kitten present that must be fed twice daily.
9. RCAS shelter personnel keep no written records of when weekend or holiday cleanings or feedings are done or when the drop boxes are checked.
10. At 1:05 p.m. September 3, 2014, Inspector Blatche checked the inside temperature of the RCAS "drop box." The thermometer read 91.9 degrees F. Weather conditions at RCAS on September 3, 2014, were the same as those in that vicinity on August 31 and September 1, 2014.
11. Inspector Blatche examined the door to the opening of the "drop box" and determined that, even if it was locked, it could be forced open wide enough to allow a person to place a kitten, puppy or small animal inside.

N.C. Gen. Stat. § 19A-40 provides that any violation of the regulations in 02 NCAC Chapter 52J authorizes the Director of Animal Welfare to impose a civil penalty of up to \$5,000.00 per violation. As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, alleges that RCAS, either by act or omission, violated the following five provisions of the N.C. Administrative Code:

- a) North Carolina Administrative Code 52J .0201
- c) North Carolina Administrative Code 52J .0202
- d) North Carolina Administrative Code 52J .0204
- e) North Carolina Administrative Code 52J.0205
- f) North Carolina Administrative Code 52J .0207

(See Appendix for text of cited Ch. 52J regulations)

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this

section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

III. DECISION

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, RCAS is assessed a civil penalty of: \$5,000.00 for violating N.C. General Statute § 19A-40 and 2 North Carolina Administrative Code 02 NCAC 52J .0201, .0202, .0204, .0205, and .0207.

\$5,000.00 TOTAL AMOUNT ASSESSED

9-24-2014
Date

Steven C Wells, DVM
Steven C Wells, DVM
Interim State Veterinarian
North Carolina Department of
Agriculture & Consumer Services

Appendix

SUBCHAPTER 52J - ANIMAL WELFARE SECTION

SECTION .0200 - FACILITIES AND OPERATING STANDARDS

02 NCAC 52J .0201 GENERAL

- (a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.
- (b) All light fixtures and electrical outlets in animal areas shall be in compliance with the State Building Code.
- (c) Facilities shall have reliable and safe electric power as necessary to comply with the Animal Welfare Act.
- (d) Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin and insects. All open bags of food shall be stored in airtight containers with lids. Refrigeration shall be provided for supplies of perishable food.
- (e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.
- (f) Hot and cold running, potable water must be available. Facilities such as washroom, basin or sink shall be provided to maintain cleanliness among animal caretakers, animals, and animal food and water receptacles.
- (g) Each facility shall have the ability to confirm ambient temperature.
- (h) A separate five-foot perimeter fence is required if any animals have access to an outdoor enclosure, including unsupervised exercise areas.
- (i) An adequate drainage system must be provided for the housing facility.
- (j) All areas of a facility are subject to review or inspection by North Carolina Department of Agriculture and Consumer Services employees during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).
- (k) All animals in a facility are subject to the requirements of the Animal Welfare Act, regardless of ownership.
- (l) A licensee or registrant shall comply with all federal, state and local laws, rules and ordinances relating to or affecting the welfare of dogs and cats in its facility.
- (m) No dog or cat shall be in a window display except during business hours and then only in compliance with standards set forth in this Section.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005.

02 NCAC 52J .0202 INDOOR FACILITIES

- (a) Indoor housing facilities for dogs and cats shall be adequately heated and cooled when necessary to protect the dogs and cats from cold and excessive heat and provide for their health and comfort. The ambient temperature shall not be allowed to fall below 50 degrees F. or exceed 85 degrees F.
- (b) Indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. The facilities shall be provided with fresh air either by means of windows, doors, vents or air conditioning and shall be ventilated so as to minimize drafts. Air flow shall be adequate to minimize odors and moisture condensation.
- (c) Indoor housing facilities for dogs and cats shall have adequate illumination to permit routine inspections, maintenance, cleaning and housekeeping of the facility and observation of the animals. Illumination shall provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities.
- (d) Interior building surfaces of indoor facilities with which animals come in contact shall be constructed and maintained so that they are impervious to moisture, and can be readily sanitized.
- (e) A suitable method of drainage shall be provided to rapidly eliminate excess water from an indoor housing facility. If closed drain systems are used, they shall be equipped with traps and installed to prevent odors and backup of sewage. The drainage system shall be constructed to prevent cross-contamination among animals.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005.

Appendix

02 NCAC 52J .0204

PRIMARY ENCLOSURES

- (a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.
- (b) Primary enclosures for dogs and cats shall be structurally sound and maintained in good repair and in a manner to prevent injury to animals and keep other animals out. Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, turn about freely, and to easily stand, sit, or lie in a natural position. The height of a primary enclosure other than a cage shall be no less than five feet. All enclosures shall be constructed to prevent the escape of animals.
- (c) Each primary enclosure shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time. All resting surfaces must be of a non-porous or easily sanitized material, such as a towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.
- (d) In addition to Paragraph (b) of this Rule, each dog shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, then divide the product by 144. The calculation is: $(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6) = \text{required floor space in square inches}$. Required floor space in square inches $\div 144 = \text{required floor space in square feet}$. The calculation shall be expressed in square feet. Not more than four adult dogs shall be housed in the same primary enclosure without supervision.
- (e) If more than four dogs are housed in a common area or enclosure, then there must be at least one person supervising each 10 dogs housed within each enclosure or common area.
- (f) In addition to Paragraph (b) of this Rule, each feline older than six months housed in any primary enclosure shall be provided a minimum of four square feet of floor space which may include elevated resting surfaces. Each feline younger than six months shall be provided 1.5 square feet. Not more than 12 cats shall be housed in the same primary enclosure.
- (g) In all cat enclosures, a receptacle containing clean litter shall be provided for waste. A minimum of one receptacle per three cats is required.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0205

FEEDING

- (a) Dogs and cats shall be fed at least once each 24-hour period except as otherwise might be required to provide adequate veterinary care. Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner. The food shall be free from contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the given size, age, and condition of an animal to meet the daily requirements for nutritional value. Puppies and kittens less than six months of age shall be fed at least twice in each 24-hour period. An eight-hour interval between feedings is required if only two feedings are offered in a 24-hour period.
- (b) Food receptacles shall be accessible to all dogs or cats and shall be located so as to minimize contamination by waste. For every adult animal, there must be at least one food receptacle offered. Food receptacles shall be durable and shall be kept clean and sanitized. Damaged receptacles shall be replaced. Disposable food receptacles may be used but must be discarded after each feeding.
- (c) Food and water receptacles in outdoor facilities shall be protected from the elements.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

Appendix

02 NCAC 52J .0207 SANITATION

- (a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.
- (b) Sanitation shall be as follows:
- (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.
 - (2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.
 - (3) Cages, rooms and hard-surfaced pens or runs shall be sanitized by:
 - (A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or
 - (B) washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant; or
 - (C) cleaning all soiled surfaces with live steam.
 - (4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.
 - (5) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.
 - (6) Any area accessible to multiple animals shall be kept clean and sanitary.
- (c) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Rule. Premises shall remain free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and to improve pest control, and to protect the health and well-being of the animals.
- (d) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 30th day of August 2016 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as either the "Department" or the "Animal Welfare Section"), and the Forsyth County, North Carolina Animal Services Shelter, located at 5570 Sturmer Park Circle, Winston-Salem, North Carolina 27105, an agency of Forsyth County, North Carolina (hereinafter referred to as the "Forsyth Animal Shelter" or the "Shelter").

R E C I T A L S

WHEREAS, on April 18, 2016, the Department assessed the Forsyth Animal Shelter a civil penalty in the amount of Five Thousand Two Hundred Dollars (\$5,200.00) as a result of the Department's discovery of evidence indicating that the Shelter had violated N.C. Gen. Stat. §19A-32.1(a), (b) (2) and (g), 02 N.C.A.C. 52J .0101(1-5), 02 N.C.A.C. 52J .0103 and 02 N.C.A.C. 52J .0210(c); and

WHEREAS, on April 18, 2016, the Department issued the Forsyth Animal Shelter a written Civil Penalty Assessment which, among other things, described in detail the evidence referred to in the preceding paragraph of this Agreement; and

WHEREAS, a true and correct copy of the April 18, 2016 written Civil Penalty Assessment is attached hereto as Exhibit 1 and is incorporated by reference in this Agreement; and

WHEREAS, the Forsyth Animal Shelter disputes certain aspects of the April 18, 2016 written Civil Penalty Assessment; and

WHEREAS, the Forsyth Animal Shelter has the right to contest the April 18, 2016 written Civil Penalty Assessment by filing a petition for a contested case hearing in the North Carolina Office of Administrative Hearings; and

WHEREAS, the parties recognize that litigating the April 18, 2016 written Civil Penalty Assessment would be expensive and time-consuming; and

WHEREAS, the Forsyth Animal Shelter and the Department desire to fully and finally compromise and settle this and all other disputes and controversies between them involving the Department's April 18, 2016 assessment of a civil penalty against the Forsyth Animal Shelter; and

WHEREAS, the Forsyth Animal Shelter and the Department desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of litigation:

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department and the Forsyth Animal Shelter agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by reference as if fully set forth herein.

2. On May 23, 2016, the Shelter produced documentation showing that Animal A329347 was in the care of a veterinary clinic during the majority of the time that other Shelter records initially indicated the animal was in the care of the Shelter. The basis for the violation cited in the April 18, 2016 civil penalty for this animal was that Shelter records produced at the time of the investigation indicated that this animal was known to be injured at the time of intake, no documentation of administration of veterinary care could be found and there was no recollection or indication from the Shelter staff that the animal had been taken to a veterinary clinic. Since the documentation produced by the Shelter on May 23, 2016 indicates that this animal did receive veterinary care, the Department is waiving this violation and associated \$1,000.00 portion of the civil penalty.

3. The Shelter voluntarily agreed to participate in a Program Review. The Shelter has implemented or is in the process of implementing the suggestions and recommendations generated by the Program Review.

4. The Shelter dedicated a significant amount of resources to improve the record keeping system and animal documentation at the shelter. In addition, the Shelter has implemented an internal audit program to assess continued compliance with record keeping requirements.

5. On August 17, 2016, the Department conducted a follow-up site visit. At this time, Shelter staff was able to produce complete animal records for 13 randomly selected animals. The documentation for these animals met the requirements of the N.C. Animal Welfare Act and the regulations promulgated thereunder. In addition, the staff was able to generate all reports requested by Department staff personnel.

6. In consideration of the efforts of the Shelter to correct all violations, to update and improve procedures at the Shelter relative to compliance with the NC Animal Welfare Act and to

implement safeguards to prevent future violations, the Department will lower the civil penalty that was assessed on April 19, 2016 to Two Thousand One Hundred Dollars (\$2,100.00).

7. By no later than September 30, 2016 the Forsyth Animal Shelter shall pay the Department the sum of Two Thousand Dollars One Hundred Dollars (\$2,100.00).

8. Upon its timely receipt from Forsyth Animal Shelter of the sum of \$2,100.00, as provided in paragraph 7 of this Agreement above, and upon the Forsyth Animal Shelter's full compliance with the other terms of this Agreement, the Department shall waive the remaining civil penalty assessment of Two Thousand One Hundred Dollars (\$2,100.00).

9. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

10. The parties agree to act in good faith in the implementation of this Agreement.

11. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

12. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

13. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

14. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.

15. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

16. This Agreement shall be binding in perpetuity upon and shall inure to the benefit of the parties, their agents, officers, employees, successors, assigns, heirs, executors and administrators.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

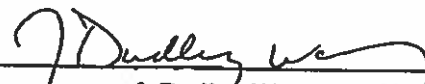
THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION

By: 

Patricia Norris, DVM
Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: September 20, 2016

THE FORSYTH COUNTY, NORTH CAROLINA
ANIMAL SERVICES SHELTER

By: 

J. Dudley Watts, Jr
County Manager, Forsyth County, North Carolina

Date: September 13, 2016
PLN Per direction of
Dudley Watts

Exhibit 1

**(April 18, 2016 Written Notice of Civil Penalty
Assessment)**



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Mackes, DVM
State Veterinarian

April 18, 2016

J. Dudley Watts, Jr.
Forsyth County Manager
201 North Chestnut Street
Winston-Salem, NC 27101

NOTICE OF CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF N. C. GENERAL STATUTE §19A-32.1(a), (b)(2) and (g) and TITLE 02 N. C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0101(1) - (5); .0103 and .0210(c).

AWS-CP-2016-4

Facility: Forsyth County Department of Animal Control Animal Shelter

Dear Mr. Watts:

Pursuant to N. C. General Statute § 19A-40 I am issuing this notice to you that the Forsyth County Department of Animal Control Animal Shelter is assessed a civil penalty of \$5,200.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N. C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("OAH"). Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Norris", followed by the printed text "DVM, MS".

Patricia Norris, DVM MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, State Veterinarian
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

FORSYTH COUNTY DEPARTMENT OF
ANIMAL CONTROL ANIMAL SHELTER

) NOTICE OF VIOLATIONS
) ASSESSMENT OF CIVIL PENALTY
) FOR VIOLATIONS OF N. C. GENERAL
) STATUTE § 19A-32.1(a) and (b)(2) and (g)
) 02 NCAC 52J .0101(1) - (5); .0103 and
) .0210(c).
)

Acting pursuant to N.C. Gen. Stat. § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, Forsyth Department of Animal Control Animal Shelter ("the shelter") was an animal shelter, registered pursuant to N.C. General Statute § 19A-26.
2. On March 17, 2016, AWS Animal Health Technician Lindsey Lloyd ("Inspector Lloyd") conducted a random facility inspection of the shelter. This inspection was marked as "Disapproved" due to multiple incomplete shelter records for the animals, inability of staff to match records to animals at the time of the facility inspection and euthanasia of 4 animals prior to the expiration of the minimum hold period of 72 hours without documentation of a serious illness or serious injury as required by N. C. General Statute § 19A-32.1(b)(2) or proper owner surrender with written consent under § 19A-32.1(g).
3. On the March 17, 2016 inspection, Inspector Lloyd gave the shelter 7 days in which to correct the record keeping/filing problem, i.e. ensure that complete records for an animal could be located and matched to that animal.
4. On March 28, 2016 Inspector Lloyd returned to the shelter with AWS Animal Health Technician Christie Shore ("Inspector Shore"). Inspectors Lloyd and Shore returned to the shelter on March 29, 2016 and on April 6, 2016. AWS Outreach Coordinator Joe Blomquist ("Coordinator Blomquist") was also at the shelter on March 29, 2016. Inspector Lloyd returned to the shelter again on April 7, 2016. While at the shelter on these dates, the Inspectors and Coordinator reviewed shelter records and interviewed shelter staff.
5. On March 29, 2016, Inspectors Lloyd and Shore met with a citizen who provided them with information and filed a complaint alleging modification of animal records by shelter staff, failure to provide veterinary care to a dog for several days, and failure to provide veterinary care for another dog and a kitten in which the outcome was that the animals were later found dead in their kennels. The citizen also provided information and filed complaints for matters that were not found to be under the jurisdiction of AWS.
6. On April 6, 2016 Inspectors Lloyd and Shore obtained veterinary medical records for some of the shelter animals from the attending veterinary clinics. On April 7, 2016 Inspector Lloyd obtained veterinary medical records from an additional attending veterinary clinic.

7. The facility inspection and records review detailed above and review of the information provided by the complaint revealed the following:

- a) Three cats with the identification numbers A329121, A329122 and A329123 were taken in by the shelter as strays on February 18, 2016. All 3 cats were euthanized on February 19, 2016. No documentation of serious illness or injury at the time of euthanasia could be found. When asked, shelter staff disclosed the reason for the early euthanasia was because the animals were "feral."
- ✓ b) A cat with the identification number A329340 was taken in by the shelter as a stray on February 27, 2016. The kennel card notes a wound on the front leg. The cat was euthanized on February 29, 2016. No evidence of veterinary care could be found. No documentation of justification for early euthanasia was provided.
- ✓ c) A cat with the identification number A329346 was taken in by the shelter as a stray on February 27, 2016. The kennel card indicates that this cat had an injured left front leg. The intake registry indicates "stray injured cat - basic care." The medical history record for this cat indicates instructions for veterinary care issued on February 29, 2016. The cat was euthanized on February 29, 2016. No documentation of serious illness or injury at the time of euthanasia could be found.
- ✓ d) A cat with the identification number A329535 was taken in by the shelter as an owner surrender on March 5, 2016 as noted in the kennel card and in the computer. The cat was euthanized on March 7, 2016. No written consent by the owner or other justification for the disposition of the animal before the expiration of the minimum holding period could be found.
- ✓ e) A dog named Curmen with the identification number A321751 was taken in by the shelter as a stray on October 30, 2015. A note was made in the computer on October 30, 2015 at 15:52 that "dog has a prolapsed uterus. fw." Another note was made into the computer on November 1, 2015 at 17:16 which stated: "Was told by a volunteer that this dog has a prlasp (sic) uterus. I sent a picture to Dr. Strickland asking him if the dog needed any medication the only thing he prescribed was tramadol if the dog was in pain (sic) gave her 1.5 tramadol, the dog is due out today 11/1/15 at 15:48 . nh." No documentation of any veterinary care being administered to this dog on October 30 or October 31, 2016 could be found. Veterinary care was not sought until late afternoon on November 1, 2016. There is no evidence that this veterinary care was sought due to daily observation by staff of the medical condition which had been present since intake.
- f) A kitten with the identification number A320629 was taken in by the shelter as a stray on October 16, 2015. The intake registry notes this kitten to be 1 month old and "sick." The medical history for this kitten notes on October 16, 2015: "Eyes possibly blind." The complainant notes that on October 18, 2015, she observed that the kitten was unable to eat the wet food in the kennel and was doing poorly. The complainant states she brought her concerns to the attention of the staff present at the shelter that day. An entry into the computer on October 19, 2015 at 10:52 notes "Cat is a foster, medical emergency. Cat can not (sic) eat on its own, 3-5 weeks old, sickly." The computer record notes on October 19, 2015 at 11:32 that the kitten died in the kennel. No evidence of any veterinary care being administered to this kitten could be found.
- g) A dog named Bear with identification number A121091 was owner surrendered to the shelter on February 19, 2016. The Intake Registry notes this dog is "elderly and has medical issues." The Activity Card for this dog notes "the dog is fourteen years old and cannot hardly walk - due to hip and leg issues." A memo entered in the computer on February 22, 2016 at 7:57 by Scott Bird notes: "Dog

displaying strange behavior. Unbalanced, can barely move, head tilted strange. Old. OK to euth this dog." A memo entered in the computer on February 22, 2016 at 16:12 noted: "Dog bit Monica Sparks at approx. 15:09 PM today. As per T. Jennings dogs (sic) head to be sent to Ruliegh (sic) for testing." Shelter records indicate that the bite occurred during handling the dog in preparation for euthanasia. The decision was made not to continue with the euthanasia and send the remains for rubies testing but to place the dog in a 10 day quarantine. The complainant states that she observed this dog on February 28, 2016 not doing well, (urine in his water bowl, vomit/diarrhea in his kennel, severely lethargic or unable to move). She stated that she discussed her concerns with a staff member on that day. A memo entered into the computer on March 2, 2016 at 11:42 notes: "This dog died in the kennel. Happened sometime in the very early morning hours of 03.01.16. Staff found dog around 8:00AM dead in kennel." No evidence could be found of veterinary care being provided to this dog despite being barely able to walk at the time of intake and displaying significant neurological signs during the stay at the shelter.

h) A dog with the identification number A329347 was taken in by the shelter as a stray on February 28, 2016. A memo entered into the computer on February 29, 2016 at 16:18 notes: "This dog is a medical emergency. Dog hit by a car. Can not (sic) move, heavy breathing. Possible broken or fractured right hindlimb. Dog can not (sic) move. OK to euth this dog as a medica (sic) lemergency (sic). Dog is aggressive, staff could not scan animal. OK to euth dog." This animal was not euthanized until late afternoon (16:40) on February 29, 2016. No evidence of veterinary care being provided to this dog during the interim period could be found.

i) A dog with the identification number A329124 was taken in by the shelter as a stray on February 19, 2016. The dog was noted as "sick-emaciated dog" on the Intake Registry. This dog was euthanized on February 19, 2016. No determination, in writing, by the shelter manager, that the animal was seriously ill or injured to justify the euthanasia before the expiration of the minimum holding period could be found.

j) A dog with the identification number of A330368 was taken in by the shelter as a stray on March 17, 2016 according to staff interviews, medical records from the attending veterinary clinic and the activity card of the ACO who transported the dog. This dog was admitted directly to the attending veterinary clinic and assessed as being severely injured with spinal injuries and pelvic fractures. The veterinarian recommended euthanasia due to the severity of the injuries. The dog was transported to the shelter on March 18, 2016 and euthanized. No shelter record either computer generated or hand written could be located for this dog. No intake information or euthanasia information, except the DEA log entry, could be found for this dog. None of the information required by the 02 NCAC 52J Section .0101 could be located for this dog.

k) A litter of puppies with the identification numbers A328372, A328377, A328379, A328381, A328382, A328383, and A328384 have intake dates of February 10, 2016 on their kennel cards. According to shelter staff statements, these nursing puppies actually entered the shelter with their dam on February 2, 2016, not on February 10, 2016 as indicated in the shelter records. The shelter staff indicated that their procedure for litters of nursing animals was not to record the actual day of intake but to record the date on which their disposition had been decided. The dam had been confiscated due to a bite and was placed in a 10 day quarantine. The dam was euthanized on February 11, 2016 at the end of her quarantine period. The puppies were also euthanized on February 11, 2016. The puppies are noted on the kennel card as owner surrendered animals, yet no owner surrender form with a signature could be located. No Intake Registry sheet could be located for 6 of the 7 puppies. When asked by Inspector Shore for the Intake Registry sheets, the shelter staff produced one for puppy A328372 dated March 29, 2016, which is more than 6 weeks after the puppy had been euthanized.

✓) A review of shelter records for March 2016 revealed 53 animal records that were missing origination, animal description, location of the animal, disposition information, euthanasia information and/or record of veterinary care as required in 02 NCAC 52J .0101(1) - (5). The review of shelter records for February 2016 revealed 27 animal records with similar missing information.

✓m) Review of shelter records reveal that numerous animal records are missing required information such that compliance with N. C. General Statute §19A-32.1 could not be ascertained.

CONCLUSIONS

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, finds that the shelter either by act or omission, violated the provisions of N. C. General Statutes §19A-32.1(a), (b)(2) and (g) and 02 North Carolina Administrative Code 52J .0101(1) - (5); .0103 and .0210(c).

Violation of N. C. General Statutes §19A-32.1(a) and (b)(2) occurred with animals A329121, A329122, A329123, A329340 and A329346.

Violation of N. C. General Statute §19A-32.1(g) occurred with animal A329535.

Violation of 02 North Carolina Administrative Code 52J .0101(1) - (5) occurred with A330368 and numerous animals as detailed above.

Violation of 02 North Carolina Administrative Code 52J .0103 occurred with numerous animals as detailed above.

✓ Violation of 02 North Carolina Administrative Code 52J .0210(c) occurred with animals A321751, A320629, A121091, and A329347. (e, f, g, h)

(See Appendix for text of cited General Statutes and Administrative Code)

CIVIL PENALTIES

As required by N.C. Gen. Stat. § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly Forsyth County Department of Animal Control Animal Shelter is assessed a civil penalty for the following violations:

- 1) \$500.00 for 5 violations of N. C. General Statute §19A-32.1(a) and (b)(2);
- 2) \$100.00 for violation of N. C. General Statute §19A-32.1(g);
- 3) \$500.00 for violation of 02 North Carolina Administrative Code 52J .0101(1) - (5);
- 4) \$100.00 for violation of 02 North Carolina Administrative Code 52J .0103; and
- 5) \$4,000.00 for 4 violations of 02 North Carolina Administrative Code 52J .0210(c)

\$5,200.00 TOTAL AMOUNT ASSESSED

April 18, 2016
Date

Patricia Norris, DVM, MS
Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

(b) Before an animal may be euthanized or otherwise disposed of, it shall be made available for adoption under procedures that enable members of the public to inspect the animal, except in the following cases:

(1) The animal has been found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament.

(2) The animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.

(g) An animal that is surrendered to an animal shelter by the animal's owner may be disposed of before the expiration of the minimum holding period in a manner authorized under subsection (f) of this section if the owner provides to the shelter (i) some proof of ownership of the animal and (ii) a signed written consent to the disposition of the animal before the expiration of the minimum holding period.

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2, (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (1) origin of animals (including names and addresses of consignors) and date animals were received;
- (2) description of animals including species, age, sex, breed, and color markings;
- (3) location of animal if not kept at the licensed or registered facility;
- (4) disposition of animals including name and address of person to whom animal is sold, traded or adopted and the date of such transaction; in the event of death, the record shall show the date, signs of illness, or cause of death if identified; if euthanized, the record shall show date and type of euthanasia; and
- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0103 INSPECTION OF RECORDS

All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall make all required records available to the director or his authorized representative on request, during the business and cleaning hours listed on the license application. The operator must be able to match each animal to its record upon request. Records shall be maintained for a period of one year after the animal is released.

History Note: Authority G.S. 19A-24; 19A-25;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .01210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. March 23, 2009; January 1, 2005.*

**RESOLUTION RATIFYING AND AUTHORIZING EXECUTION OF AN
AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES, VETERINARY DIVISION, ANIMAL WELFARE
SECTION IN SETTLEMENT OF A CIVIL PENALTY ASSESSMENT AGAINST THE
FORSYTH COUNTY ANIMAL CONTROL/ANIMAL SHELTER**

WHEREAS, on April 18, 2016, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section assessed a civil penalty in the amount of \$5,200.00 against the Forsyth County Animal Control/Animal Shelter as a result of alleged violations of the N.C. Animal Welfare Act; and

WHEREAS, the Forsyth County Animal Control/Animal Shelter disputes certain aspects of the April 18, 2016 Civil Penalty Assessment; and

WHEREAS, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, has agreed to reduce the amount of the original civil penalty assessed against the Forsyth County Animal Control/Animal Shelter from \$5,200.00 to \$2,100.00, in compromise and settlement of disputes of certain aspects of the Civil Penalty Assessment and in consideration of the Shelter's efforts to correct any violations, update and improve procedures at the Shelter in compliance with the N.C. Animal Welfare Act, and to implement safeguards to prevent future violations;

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby ratifies and authorizes execution of the attached Agreement between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section and the Forsyth County Animal Control/Animal Shelter by the County Manager, on behalf of Forsyth County and its Shelter, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where appropriate, and approval as to form and legality by the Forsyth County Attorney.

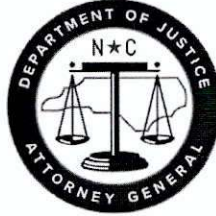
Adopted this the 12th day of September 2016.

ADOPTED

SEP 12 2016

**Forsyth County Board
of Commissioners**

JOSH STEIN
ATTORNEY GENERAL



REPLY TO:
CHRISTOPHER R. MCLENNAN
(919) 716-6507 & (919) 707-3029
FAX: (919) 716-6755
CMCLENNAN@NCDOJ.GOV

July 16, 2018

North Carolina Office of Administrative Hearings
VIA ELECTRONIC FILING

Re: *Donald and Donna Easterlin / Sunny Acres Pet Resort v. NC Dep't of Agriculture
and Consumer Services*
NCOAH File No. 18 DAG 03426

To the Honorable North Carolina Office of Administrative Hearings:

Respondent North Carolina Department of Agriculture and Consumer Services received the attached letter dated July 9, 2018 from Petitioner. In the letter, it is indicated that Petitioner wishes to dismiss their contested case hearing (referred to as "civil case") and that the parties have reached a settlement agreement. On July 16, 2018, I spoke with Ms. Easterlin via telephone and she verbally consented to a copy of this letter being filed with the NCOAH. Therefore, it appears this case is resolved and can be removed from the hearing docket.

If any additional information or filing is necessary, please contact me at (919) 716-6507.

Sincerely,

Christopher R. McLennan
Assistant Attorney General

w/ enc.

cc: Ms. Donna Easterline
donnaeasterline@yahoo.com



P.O. Box 2641
Durham, NC 27715

July 9, 2018

Dr. Patricia Norris
NC Department of Agriculture
1030 Mail Service Center
Raleigh, NC 27699-1030

Re: OAH Case Number 18 DAG 03426

Dear Dr. Norris,

We are writing to request the dismissal of the civil case and penalties associated with violation 02 NCAC 52J .0210(c). In lieu of a hearing we are more than happy to have a veterinarian lead a class on bloat, heat stroke and other medical emergencies that could arise while pets are in our care. Although we do not feel we were in violation, we are deeply saddened by the circumstances surrounding London Carr. We pride ourselves on giving the utmost in quality care as we believe we did with London.

Although we have been in business for over 13 years we realize we can always expand our knowledge and ability to act in emergencies and agree that continuing education is a part of quality care.

Thank you for working with us.

Respectfully,

Donna Easterlin

Donna Easterlin
Owner, Sunny Acres Pet Resort
Cell: 919 280-6708 (preferred)
work: 919 383-4238

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 5th day of January 2016 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as either the "Department" or the "Animal Welfare Section"), and the Lincoln County, North Carolina Animal Services Shelter, located at 650 John Howell Memorial Drive, Lincolnton, North Carolina 28092, an agency of Lincoln County, North Carolina (hereinafter referred to as the "Lincoln Animal Shelter" or the "Shelter").

R E C I T A L S

WHEREAS, on December 8, 2015, the Department assessed the Lincoln Animal Shelter a civil penalty in the amount of Seven Thousand, Five Hundred Dollars (\$7,500.00) as a result of the Department's discovery of evidence indicating that the Shelter had violated 02 North Carolina Administrative Code 52J .0101(5), .0205(a), .0207(a), and .0210(b) and (c); and

WHEREAS, on December 8, 2015, the Department issued the Lincoln Animal Shelter a written Civil Penalty Assessment which, among other things, described in detail the evidence referred to in the preceding paragraph of this Agreement; and

WHEREAS, a true and correct copy of the December 8, 2015 written Civil Penalty Assessment is attached hereto as Exhibit 1 and is incorporated by reference in this Agreement; and

WHEREAS, the Lincoln Animal Shelter disputes certain aspects of the December 8, 2015 written Civil Penalty Assessment; and

WHEREAS, the Lincoln Animal Shelter has the right to contest the December 8, 2015 written Civil Penalty Assessment by filing a petition for a contested case hearing in the North Carolina Office of Administrative Hearings; and

WHEREAS, the parties recognize that litigating the December 8, 2015 written Civil Penalty Assessment would be expensive and time-consuming; and

WHEREAS, the Lincoln Animal Shelter and the Department desire to fully and finally compromise and settle this and all other disputes and controversies between them involving the Department's December 8, 2015 assessment of a civil penalty against the Lincoln Animal Shelter; and

WHEREAS, the Lincoln Animal Shelter and the Department desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department and the Lincoln Animal Shelter agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by reference as if fully set forth herein.

2. The Lincoln Animal Shelter has developed and submitted to the Animal Welfare Section written proposed policies and procedures detailing a program of adequate veterinary care to include but not be limited to appropriate communication with the shelter veterinarian, proper medication and documentation of medication of animals under the direction of the shelter veterinarian, and the obtaining and implementation of written veterinary recommendations in the event of a disease condition persisting for more than 30 days. The Lincoln Animal Shelter has also developed and submitted to the Animal Welfare Section written proposed policies and procedures detailing the twice daily feeding of young animals as well as the twice daily cleaning of enclosures. These policies and procedures are attached as Exhibit 2.

3. The Director of the Animal Welfare Section has approved the written policies and procedures attached as Exhibit 2 to this Agreement.

4. The Lincoln Animal Shelter agrees, beginning no later than thirty (30) calendar days after the date this Agreement is signed by the Lincoln County Animal Shelter, to provide training to every Lincoln Animal Shelter staff member concerning the policies and procedures attached as Exhibit 2 to this Agreement. The Lincoln Animal Shelter agrees to provide documentation of this training and the names of all training participants and attendees to the Animal Welfare Section.

5. The Lincoln Animal Shelter agrees that, by no later than January 29, 2016, the shelter veterinarian will have assessed the animals in the care and custody of the shelter and reported to the Animal Welfare Section this evaluation is complete. If the veterinarian determines that there is a disease condition currently present at the shelter that has persisted for more than 30 days then the shelter veterinarian shall provide recommendations to address the disease condition. The shelter shall implement these veterinary recommendations in compliance with 02 NCAC 52J .210(b).

6. By no later than February 8, 2016, the Lincoln Animal Shelter shall pay the Department the sum of \$3,750.00.

7. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

8. The parties agree to act in good faith in the implementation of this Agreement.

9. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

10. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

11. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

12. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.

13. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

14. This Agreement shall be binding in perpetuity upon and shall inure to the benefit of the parties, their agents, officers, employees, successors, assigns, heirs, executors and administrators.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

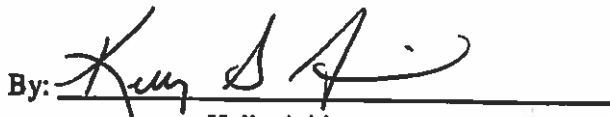
THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION

By: 

Patricia Norris, DVM MS
Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: 1/11/2016

THE LINCOLN COUNTY, NORTH CAROLINA
ANIMAL SERVICES SHELTER

By: 

Kelly Atkins
County Manager, Lincoln County, North Carolina

Date: 1-6-2016

Exhibit 1

**(December 8, 2015 Written Notice of Civil Penalty
Assessment)**

Exhibit 2

**(Policies and Procedures Submitted by Lincoln
County Animal Shelter, December 18, 2015)**

Exhibit 1

**(December 8, 2015 Written Notice of Civil Penalty
Assessment)**



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

December 8, 2015

Kelly Atkins
Lincoln County Manager
115 W. Main Street
Lincolnton, NC 28092

NOTICE OF CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02 N. C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0101(5), .0205(a), .0207(a) and .0210(b) and (c).

Facility: Lincoln County Animal Services Shelter

Dear Mr. Atkins:

Pursuant to N. C. General Statute § 19A-40 I am issuing this notice to you that the Lincoln County Animal Services Shelter is assessed a civil penalty of \$7,500.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N. C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment of filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("OAH"). Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Norris', with a long horizontal flourish extending to the right.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

LINCOLN COUNTY ANIMAL SERVICES
ANIMAL SHELTER

) NOTICE OF VIOLATIONS
) ASSESSMENT OF CIVIL PENALTY
) FOR VIOLATIONS OF
) 02 NCAC 52J .0101(5), .0205 (a), .0207 (a)
) and .0210 (b) and (c)
)
)

Acting pursuant to N.C. Gen. Stat. § 19A-30, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. On October 21, 2015, AWS received a complaint concerning the Lincoln County Animal Services Shelter ("the shelter").
2. AWS opened an investigation and on October 27, 2015, AWS Animal Health Technician Jay Blatche ("Inspector Blatche") conducted a site visit of the shelter. As part of the site visit Inspector Blatche conducted staff interviews and a records review.
3. The review of the animal records revealed the following:
 - a) In March 2015, two (2) animals were found dead in their kennels. Both of these animals were cats;
 - b) In April 2015, four (4) animals were found dead in their kennels. One (1) of these was a dog and three (3) were cats;
 - c) In May 2015, twenty-three (23) animals were found dead in their kennels. One (1) of these was a dog and twenty-two (22) were cats;
 - d) In June 2015, twenty-seven (27) animals were found dead in their kennels. All twenty-seven (27) of these animals were cats;
 - e) In July 2015 twenty-three (23) animals were found dead in their kennels. Three (3) of these were dogs and twenty (20) were cats;
 - f) In August 2015, forty-four (44) animals were found dead in their kennels. Five (5) of these were dogs and thirty-nine (39) were cats;
 - g) In September 2015, fifty-six (56) animals were found dead in their kennels. Six (6) of these were dogs and fifty (50) were cats; and
 - h) From October 1-27, 2015, thirty-seven (37) animals were found dead in their kennels. All thirty-seven (37) of these animals were cats;
4. Although it is not uncommon for a small number of animals to be found deceased in their kennel at a shelter, the large increase in this number starting in May 2015 as compared to March and April 2015 is consistent with a disease problem.

5. No written program for disease control written by a veterinarian could be located that addressed this apparent disease problem. The shelter manager acknowledged that no written recommendations for correcting the apparent disease problem had been prepared. The contract veterinarian stated that she was never notified of the deaths.

6. A review of the animal medical records of the shelter revealed multiple instances in which prescribed medications were not administered as directed by the veterinarian. In addition, more than twenty of the medication logs did not contain the information required by the Animal Welfare rules and regulations.

7. When asked about the AWA required twice daily cleaning of enclosures and the twice daily feeding of puppies and kittens, the shelter manager replied that the staff is only present from 7AM to 11AM on Sundays.

CONCLUSIONS

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, finds that you either by act or omission, violated the provisions the North Carolina Administrative Code 52J .0101(5), .0205 (a), .0207 (a) and .0210 (b) and (c).

(See Appendix for text of cited General Statutes and Administrative Codes)

CIVIL PENALTIES

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly the Lincoln County Animal Services Shelter is assessed a civil penalty for the following violations:

- 1) \$500.00 for violation of 52J .0101 (5) – failure to keep proper record of veterinary care;
- 2) \$500.00 for violation of 52J .0205 (a) – failure to feed puppies and kittens less than six months of age twice daily with an eight-hour interval between feedings;
- 3) \$500.00 for violation of .0207 (a) – failure to clean enclosures twice daily;
- 4) \$5,000.00 for violation of .0210 (b) – failure to obtain and follow a veterinarian's written recommendation for a disease problem; and
- 5) \$1,000.00 for violation of .0210 (c) – failure to provide adequate veterinary care.

\$7,500.00 TOTAL AMOUNT ASSESSED

12/8/2015

Date



Patricia Norris, DVM
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0205 FEEDING

(a) Dogs and cats shall be fed at least once each 24-hour period except as otherwise might be required to provide adequate veterinary care. Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner. The food shall be free from contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the given size, age, and condition of an animal to meet the daily requirements for nutritional value. Puppies and kittens less than six months of age shall be fed at least twice in each 24-hour period. An eight-hour interval between feedings is required if only two feedings are offered in a 24-hour period.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0210 VETERINARY CARE

(a) A written program of veterinary care to include disease control and prevention, vaccination, euthanasia, and adequate veterinary care shall be established with the assistance of a licensed veterinarian by any person who is required to be licensed or registered under the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes.

(b) If there is a disease problem that persists for more than 30 days at the facility, the facility operator shall obtain and follow a veterinarian's written recommendations for correcting the problem.

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005.

Exhibit 2

**(Policies and Procedures Submitted by Lincoln
County Animal Shelter, December 18, 2015)**



STANDARD OPERATING GUIDELINE

Number 100-4

Daily Feeding Procedure

EFFECTIVE DATE:
12/16/2015

REVISION DATE:

APPROVED BY:
DAVID A. WORKMAN

PAGE:
1 OF 1

PURPOSE: To ensure that animals are receiving the correct amount of nutrition as recommended by the veterinarian.

SCOPE: This procedure applies to all LCAS Employees, Volunteers, and NCDOC workers.

POLICY: All LCAS employees, LCAS volunteers, and NCDOC Workers must:

Follow the recommended feeding schedule set forth by the veterinarian.

Food must be measured out to ensure that you are giving the animal the proper amount that is recommended.

Cat Feeding Schedule

1. Kittens less than six months of age must be fed twice daily. Kittens will receive ½ cup in the morning and ½ cup in the evening.
2. Cats over six months of age will receive 1 cup daily.
3. These schedules will be followed on a daily basis, unless otherwise directed by the veterinarian.

Dog Feeding Schedule

1. Puppies less than six months of age must be fed twice daily.
2. Dogs/Puppies under 15 pounds will receive ½ cup in the morning and ½ cup in the evening.
3. Dogs/Puppies 20-50 pounds will receive 2 cups in the morning and 2 cups in the evening.
4. Dogs/Puppies over 50 pounds will receive 3 cups in the morning and 3 cups in the evening.
5. These schedules will be followed on a daily basis, unless otherwise directed by the veterinarian.



STANDARD OPERATING GUIDELINE

Number 100-1

Medication Administration Procedure

EFFECTIVE DATE:
10/30/2015

REVISION DATE:

APPROVED BY:
DAVID A. WORKMAN

PAGE:
1 OF 1

PURPOSE: The intent of this procedure is to ensure that all animals are properly medicated as ordered by the Veterinarian.

SCOPE: This procedure applies to all LCAS Employees

POLICY: All LCAS employees shall:

Ensure that all medications are administered according to the Veterinarian's prescribed orders. NO EXCEPTIONS

No employee is authorized to not administer an ordered medication, unless otherwise ordered by the Veterinarian.

In the absence of the Veterinarian Technician the Shelter Supervisor or his/her designee shall administer medications as ordered by the Veterinarian.

Failure to administer ordered medications by any employee will be subject to disciplinary action up to and including termination.

1. A Medication Administration Record **shall** be completed and/or updated for each animal receiving medication on a daily basis.
2. The administering employee shall ensure that the Medication Administration Record is completed at the time of administration and signed off by the administering employee.
3. The Medication Administration Record will be kept in a Medication Log Book and shall be checked and signed on a daily basis by the Veterinarian Technician.
4. The Medication Administration Record will include the following information; the animals Identification number, animals location, date/time medication was administered, medication name and dosage, Veterinarian who ordered medication and employee's name and signature.



STANDARD OPERATING GUIDELINE

Number 100-5

Veterinarian Protocol

EFFECTIVE DATE:
12-17-2015

REVISION DATE:

APPROVED BY:
DAVID A. WORKMAN

PAGE:
1 OF 2

PURPOSE: To provide a written protocol for the shelter to ensure that all animals are receiving proper veterinary care.

SCOPE: This procedure applies to all LCAS Employees, Volunteers, and NCDOC Workers.

POLICY: All LCAS employees, LCAS volunteers, and NCDOC Workers shall:

1. All animals entering the animal shelter shall be assessed for any injuries or obvious abnormalities. If there is any question, the Facility Operator should be contacted and at his direction the Lincoln County Animal Services Veterinarian.
2. Animals entering the animal shelter without obvious injury should be weighed, photographed, and vaccinated for the age and breed appropriate vaccines and dewormed within 24 hours of entry.
3. Any animal showing signs of disease, i.e. – upper respiratory (sneezing, coughing, eye or nasal discharge) or gastrointestinal (diarrhea, vomiting) shall be isolated and the appropriate staff informed as soon as possible.
4. Any deaths shall be reported immediately to the appropriate staff. If possible the body should be wrapped in plastic and placed in refrigeration for the Lincoln County Animal Services Veterinarian. All deaths should be noted in the veterinary record book and brought to the attention of the Veterinarian.
5. Disease outbreaks are best controlled by taking immediate action to isolate ill animals and consult with the veterinary staff to observe specific protocol involving cleaning and restrictions set forth according to the nature of the outbreak.
6. Do not place any animals or allow visitors or volunteers to enter restricted or quarantined areas.
7. Euthanasia of animals will be at the discretion of the Facility Operator in conjunction with the Veterinarian recommendations.
8. The adopters, rescuers, or fosterers of any animals with current veterinary restrictions will be informed and asked to sign a written consent stating they will be seek veterinary care within a time constraint as recommended by the veterinary staff.



STANDARD OPERATING GUIDELINE

Number 100-5

Veterinarian Protocol

EFFECTIVE DATE:
12-17-2015

REVISION DATE:

APPROVED BY:
DAVID A. WORKMAN

PAGE
2 OF 2

9. Outside veterinary care will be provided for the Lincoln County Animal Shelter twice weekly.
 - a. At these appointed times the Veterinarian Technician (or assigned representative) shall present the Veterinarian with a written record of any animals needing examination and/or treatment.
 - b. The Veterinarian shall record her interpretations of clinical signs and diagnosis as well as treatments and restrictions placed on these animals.
 - c. The medications prescribed shall be followed and recorded as written by the Veterinarian.
 - d. The Veterinarian shall weekly review medications and sign appropriate treatment cards.
 - e. The Veterinarian will provide examinations and/or additional treatment at their private facility based on mutual agreement of said Veterinarian and Facility Operator
 - f. The Veterinarian will make herself available for consult as is needed within reason.



STANDARD OPERATING GUIDELINE

Number 100-2

Daily Shelter Operations

EFFECTIVE DATE:
12/11/2015

REVISION DATE:

APPROVED BY:
DAVID A. WORKMAN

PAGE:
1 OF 2

PURPOSE: To ensure that all daily shelter operations are completed and the animals receive the proper veterinary care.

SCOPE: This procedure applies to all LCAS Employees, Volunteers, and NCDOC workers.

POLICY: All LCAS employees, LCAS volunteers, and NCDOC Workers must:

Sanitation

1. All kennels/cages shall be cleaned at least twice daily.
2. Kennels shall also be checked and kept clean throughout the day.

Feeding and Watering

1. All adult animals shall be fed at least once daily and have a constant supply of water, unless otherwise directed by the veterinarian.
2. All puppies and kittens under the age of 6 months shall be fed at least twice daily and have a constant supply of water, unless otherwise directed by the veterinarian.

Veterinary Care

1. All animals shall be observed on a daily basis. The veterinarian technician shall be made aware of any animal that appears to have medical issues at the time of observation.
2. All medications shall be administered according to the Veterinarian's prescribed orders. **NO EXCEPTIONS**
3. All animals that have been in the shelter for a period longer than 15 days shall receive a rabies vaccination.



STANDARD OPERATING GUIDELINE

Number 100-2

Daily Shelter Operations

EFFECTIVE DATE:
12/11/2015

REVISION DATE:

APPROVED BY:
DAVID A. WORKMAN

PAGE:
2 OF 2

Animal Intake

1. All animals shall be vaccinated upon intake, unless otherwise directed due to medical or behavior issues.
2. All intakes shall be processed in the system upon arrival and completed in a timely manner.
3. All intake paperwork shall be completed upon arrival, please ensure that you receive as much animal information as possible during the intake.

Socialization

1. All animals that have been in the shelter for a period longer than 30 days shall be socialized on a daily basis and provided a toy suitable for its size inside the kennel/cage.
2. Please use your time wisely, walk animals and play with them outside the kennel/cage during free time on a daily basis. (Interaction with animals is needed)

Customer Relations

1. Customers that arrive to the shelter must be assisted in a timely manner.
2. Be kind and courteous to all customers and volunteers that enter the facility.
3. All phone calls received shall be handled in a respectable manner.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

PAGE:
1 OF 10

PURPOSE: The intent of this policy is to ensure that the shelter is cleaned in a proper, accurate manner, providing safety to the employee and the best possible welfare for the animal.

SCOPE: This procedure applies to all LCAS Employees, Volunteers, and NCDOC Workers.

POLICY: All LCAS employees, LCAS volunteers, and NCDOC Workers shall:

1. Clean designated area each morning (according to the cleaning attachments 1-8), and shall be completed with the initial sanitation process by 11:00 am.
ALL KENNELS/CAGES SHALL BE CLEANED AT LEAST TWICE DAILY.
2. Upon completion of their designated cleaning area assist other staff in the completion of other areas to ensure that the initial sanitation is performed in a timely manner.
3. Remove each animal from the kennel/cage that is in the process of being cleaned. **UNDER NO CIRCUMSTANCE IS ANY ANIMAL TO BE LEFT INSIDE THE KENNEL/CAGE DURING THE CLEANING PROCESS.**
4. All kennel/cages shall be sanitized between the transferring out of an animal and transferring in of another animal.
5. When handling animals with questionable behavior, use protection equipment provided to prevent injury to staff and animals. (Catch pole, cat tongs, leather gloves, etc.)
6. Remove all food and water bowls from each kennel/cage during the initial sanitation and also throughout the day if the bowls becomes unsanitary. Bowls shall be cleaned and sanitized each day. Bowls on the automatic watering system shall be sanitized every other day and upon the vacancy of the kennel/cage.
7. Remove all blankets, towels, toys, etc. from each kennel/cage during the initial sanitation and also throughout the day if the materials become unsanitary.
8. Ensure that all areas of the shelter are kept neat and organized throughout the day.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

PAGE:
2 OF 10

9. Hallways shall be swept and mopped on a daily basis. All rugs in hallways shall also be vacuumed on a daily basis.
10. Make sure that all mop buckets are sanitized daily and throughout the day as needed.
11. All animal interaction areas shall also be sanitized after each use.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

PAGE:
3 OF 10

Attachment #1 – K Room

- Remove cat from the cat cage. Depending on Veterinarian recommendations you can either allow the cat to roam free in the room or put the cat in an open cage.
- Remove soiled blankets, water bowls, food bowls, and litter pan. Take all soiled blankets, bowls, and litter pans to sanitation area to be sanitized.
- Using a dust pan and dust broom remove all loose litter and food from inside the cage.
- Apply cleaning solution to the **entire cage** evenly and let stand for at least 10 minutes.
- Wipe down the entire cage with paper towels ensuring that any remaining waste and cleaning solution is removed.
- Place a new blanket, food bowl, water bowl, and litter pan back inside cat cage. Be sure not to over fill the litter pan (about 2 scoops of litter is recommended)
- Once cage is sanitized be sure to put the cat back in the enclosure.
- After all of the cages in the room have been sanitized, clean the window sill and the cat ledges that are attached to the viewing windows with cleaning solution.
- Clean the large dome style litter pans located under the sink.
- Sweep and mop floor. Once you have finished mopping the floor empty and sanitize the mop and mop bucket. Be sure to place a "Wet Floor" sign in plain view to alert staff and customers of any slipping hazards.
- Be sure to restock all the supplies you use during the cleaning process.
- After everything is clean make sure you empty your trash can into the dumpster located in the back of the shelter.
- You may allow a few of the cats out of their cages for exercise. Be sure there is fresh food and water left out for them and never allow unaltered males and females out for exercise at the same time.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures			
EFFECTIVE DATE: 07/01/2014	REVISION DATE: 12/10/2015	APPROVED BY: DAVID A. WORKMAN	PAGE: 4 OF 10

Attachment #2 – P Room

- Remove the dog from its kennel and place into an open transfer cage.
- Remove soiled blankets, toys, water bowls and food bowls. Be sure not to dump any remaining food down cage draining system. Dumping food down the drain may result in a blockage in the pipes.
- Using hot water, rinse cage out of any waste. Make sure the entire cage gets sprayed out. Scrub where necessary.
- After cage has been completely rinsed, apply cleaning solution evenly throughout entire cage and let stand for at least 10 minutes.
- After allowing cage to disinfect for 10 minutes, rinse cleaning solution using hot water.
- Once the cage has been completely sanitized, use a clean towel to soak up any remaining water. Be sure to dry all areas of the cage including the door, the top of the cage, and both sides of the floor grate.
- Now that the cage is dry, place a clean blanket, water bowl, and food bowl inside the cage.
- Take the dog out of the transfer cage and place it back into the same cage it came from, please make sure cage door is secure.
- Once this process is complete sanitize the transfer cages using the same process. This is to be done every time a transfer cage is used to house a dog while sanitizing.
- When all the cages in the room have been sanitized, please ensure that you sanitize the floor. Using a squeegee pull all the water and waste on the floor toward the floor drains. Be sure to squeegee all the areas under the cages so you can pull out any standing water under them.
- Once you have removed any standing water and waste from the floor with the squeegee, mop the entire floor with cleaning solution. Be sure to place "Wet Floor" sign in plain view to alert staff and customers of any slipping hazards.
- After everything is sanitized make sure you empty your trash can into the dumpster located in the back of the shelter.
- Be sure to restock all the supplies you use during the cleaning process.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

PAGE:
5 OF 10

Attachment #3 – J Room

- Remove the dog from its kennel and place into an open transfer cage.
- Remove soiled blankets, toys, water bowls and food bowls. Be sure not to dump any remaining food down cage draining system. Dumping food down the drain may result in a blockage in the pipes.
- Using hot water, rinse cage out of any waste. Make sure the entire cage gets sprayed out (i.e. the door, the ceiling, and both sides of the floor grate). Scrub where necessary.
- After cage has been completely rinsed, apply cleaning solution evenly throughout entire cage and let stand for at least 10 minutes.
- After allowing cage to disinfect for 10 minutes, rinse cleaning solution using hot water.
- Once the cage has been completely sanitized, use a clean towel to soak up any remaining water. Be sure to dry all areas of the cage including the door, the top of the cage, and both sides of the floor grate.
- Now that the cage is dry, place a clean blanket, water bowl, and food bowl inside the cage.
- Take the dog out of the transfer cage and place it back into the same cage it came from, please make sure cage door is secure.
- Once this process is complete sanitize the transfer cages using the same process. This is to be done every time a transfer cage is used to house a dog while sanitizing.
- When all the cages in the room have been sanitized, please ensure that you sanitize the floor. Using a squeegee pull all the water and waste on the floor toward the floor drains. Be sure to squeegee all the areas under the cages so you can pull out any standing water under them.
- Once you have removed any standing water and waste from the floor with the squeegee, mop the entire floor with cleaning solution. Be sure to place "Wet Floor" sign in plain view to alert staff and customers of any slipping hazards.
- After everything is sanitized make sure you empty your trash can into the dumpster located in the back of the shelter.
- Be sure to restock all the supplies you use during the cleaning process.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

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6 OF 10

Attachment #4 – L Cages

- Remove the dog from its kennel and place into an open transfer cage.
- Remove soiled blankets, toys, water bowls and food bowls. Be sure not to dump any remaining food down cage draining system. Dumping food down the drain may result in a blockage in the pipes.
- Using hot water, rinse cage out of any waste. Make sure the entire cage gets sprayed out. Scrub where necessary.
- After cage has been completely rinsed, apply cleaning solution evenly throughout entire cage and let stand for at least 10 minutes.
- After allowing cage to disinfect for 10 minutes, rinse cleaning solution using hot water.
- Once the cage has been completely sanitized, use a clean towel to soak up any remaining water. Be sure to dry all areas of the cage including the door, the top of the cage, and both sides of the floor grate.
- Now that the cage is dry, place a clean blanket, water bowl, and food bowl inside the cage.
- Take the dog out of the transfer cage and place it back into the same cage it came from, please make sure cage door is secure.
- Once this process is complete sanitize the transfer cages using the same process. This is to be done every time a transfer cage is used to house a dog while sanitizing.
- When all the cages in the room have been sanitized, please ensure that you sanitize the floor. Using a squeegee pull all the water and waste on the floor toward the floor drains. Be sure to squeegee all the areas under the cages so you can pull out any standing water under them.
- Once you have removed any standing water and waste from the floor with the squeegee, mop the entire floor with cleaning solution. Be sure to place "Wet Floor" sign in plain view to alert staff and customers of any slipping hazards.
- After everything is sanitized make sure you empty your trash can into the dumpster located in the back of the shelter.
- Be sure to restock all the supplies you use during the cleaning process.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

PAGE:
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Attachment #5 – E & F Rooms

- Remove cat from the cat cage. Depending on Veterinarian recommendations you can either allow the cat to roam free in the room or put the cat in an open cage.
- Remove soiled blankets, water bowls, food bowls, and litter pan. Take all soiled blankets, bowls, and litter pans to sanitation area to be sanitized.
- Using a dust pan and dust broom remove all loose litter and food from inside the cage.
- Apply cleaning solution to the **entire cage** evenly and let stand for at least 10 minutes.
- Wipe down the entire cage with paper towels ensuring that any remaining waste and cleaning solution is removed.
- Place a new blanket, food bowl, water bowl, and litter pan back inside cat cage. Be sure not to over fill the litter pan (about 2 scoops of litter is recommended)
- Once cage is sanitized be sure to put the cat back in the enclosure.
- After all of the cages in the room have been sanitized, clean the window sill and the cat ledges that are attached to the viewing windows with cleaning solution.
- Clean large dome style litter pans.
- Sweep and mop floor. Once you have finished mopping the floor empty and sanitize the mop and mop bucket. Be sure to place a "Wet Floor" sign in plain view to alert staff and customers of any slipping hazards.
- Be sure to restock all the supplies you use during the cleaning process.
- After everything is clean make sure you empty your trash can into the dumpster located in the back of the shelter.
- You may allow a few of the cats out of their cages for exercise. Be sure there is fresh food and water left out for them and never allow unaltered males and females out for exercise at the same time.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

PAGE:
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Attachment #6 – A, B, C, G & H Kennels

- First remove the dog from the kennel. Place the dog in a clean carrier and slide away from the area your cleaning to insure the animal doesn't get wet. The only time we do not remove the dog from the kennel is when the animal is on D side. (see D Kennel-Cleaning Attachment #8)
- Once the animal has been removed from the area, turn off the automatic watering system located over the first cage in the kennel run. Remove the water bowl from inside the cage, the water bowls shall be removed every time you clean the kennel. Every other day when the bowls are not being sanitized they may be placed on top of the kennel until the process is complete.
- Using hot water, spray any waste out of the kennel. Be sure to lift the bed located in the back of the kennel over the drainage system. This will help ensure everything has been completely sanitized.
- Once the kennels have been completely rinsed out, apply cleaning solution evenly throughout kennel and let stand for 10 minutes.
- After the kennel has been allowed to stand for 10 minutes, thoroughly rinse the cleaning solution out of the kennel.
- Using a squeegee, push all water towards the back of the kennel into the drainage system. Make sure the kennel floor is completely dry.
- Reattach water bowls and turn automatic watering system back on.
- Once you are sure that the kennel has been properly dried out, place the dog back inside the kennel. It is extremely important that the correct animal goes back in the correct kennel. Check the paperwork located on the outside of the kennel door to ensure this is correct.
- Once the kennels have been sanitized, also sanitize the carrier that housed the animal during the cleaning process. If you have to use this carrier to house another dog while sanitizing please ensure that the carrier is completely dry.
- Once all sanitation is complete, turn on the automatic washout system to ensure that all waste is properly disposed of.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

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Attachment #7 – R Room

- First remove the dog from the kennel by allowing the animal to go through the pass through door into the other kennel.
- Once the animal has been removed from the area, turn off the automatic watering system located over the first cage in the kennel run. Remove the water bowl from inside the cage, the water bowls shall be removed every time you clean the kennel. Every other day when the bowls are not being sanitized they may be placed on top of the kennel until the process is complete.
- Using hot water, spray any waste out of the kennel. Be sure to lift the bed located in the back of the kennel over the drainage system. This will help ensure everything has been completely sanitized.
- Once the kennels have been completely rinsed out, apply cleaning solution evenly throughout kennel and let stand for 10 minutes.
- After the kennel has been allowed to stand for 10 minutes, thoroughly rinse the cleaning solution out of the kennel.
- Using a squeegee, push all water towards the back of the kennel into the drainage system. Make sure the kennel floor is completely dry.
- Reattach water bowls and turn automatic watering system back on.
- Once you are sure that the kennel has been properly dried out, allow the animal to come back into the kennel. It is extremely important that the correct animal goes back in the correct kennel. Check the paperwork located on the outside of the kennel door to ensure this is correct.
- Once all sanitation is complete, turn on the automatic washout system to ensure that all waste is properly disposed of.



STANDARD OPERATING GUIDELINE

Number 100-3

Cleaning Procedures

EFFECTIVE DATE:
07/01/2014

REVISION DATE:
12/10/2015

APPROVED BY:
DAVID A. WORKMAN

PAGE:
10 OF 10

Attachment #8 – D Kennels

- First remove the dog located in C Kennels and place in a carrier. After you have ensured that the C Kennel animal has been removed, allow the animal to go through the pass through door into the other kennel.
- Once the animal has been removed from the area, turn off the automatic watering system located over the first cage in the kennel run. Remove the water bowl from inside the cage, the water bowls shall be removed every time you clean the kennel. Every other day when the bowls are not being sanitized they may be placed on top of the kennel until the process is complete.
- Using hot water, spray any waste out of the kennel. Be sure to lift the bed located in the back of the kennel over the drainage system. This will help ensure everything has been completely sanitized.
- Once the kennels have been completely rinsed out, apply cleaning solution evenly throughout kennel and let stand for 10 minutes.
- After the kennel has been allowed to stand for 10 minutes, thoroughly rinse the cleaning solution out of the kennel.
- Using a squeegee, push all water towards the back of the kennel into the drainage system. Make sure the kennel floor is completely dry.
- Reattach water bowls and turn automatic watering system back on.
- Once you are sure that the kennel has been properly dried out, allow the animal to come back into the kennel. It is extremely important that the correct animal goes back in the correct kennel. Check the paperwork located on the outside of the kennel door to ensure this is correct.
- Once the kennels have been sanitized, also sanitize the carrier that housed the animal from the C Kennels during the cleaning process. If you have to use this carrier to house another dog while sanitizing please ensure that the carrier is completely dry.
- **Do Not handle or allow these animals outside of the kennels at any time.**
- Once all sanitation is complete, turn on the automatic washout system to ensure that all waste is properly disposed of.

MEDICATION ADMINISTRATION RECORD

Animal ID #:

Animal Location:

Order/Dose:

Veterinarian Who Gave Order (PRINT):

Veterinarian Who Gave Order (SIGNATURE):

Medication Name & Dosage:

ADMINISTRATION RECORD

Date	Time			Animal ID Verified ✓	Administered by	Vet Tech Signature

Remarks:

Log Verified By (PRINT):

Log Verified By (SIGNATURE):

This form shall be completed at the time the medication is administered.

All information shall be legible.

The **full name and signature** of the Veterinarian who gave the order for the medication shall be given.

Initials are not acceptable.

This medication may be administered only under the circumstances provided for and by individuals authorized by the Veterinarian.

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 14th day of October 2015 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as either the "Department" or the "Animal Welfare Section"), and the Transylvania County, North Carolina Animal Services Shelter, located at 1124 Old Rosman Highway, Brevard, North Carolina 28712, an agency of Transylvania County, North Carolina (hereinafter referred to as the "Transylvania Animal Shelter" or the "Shelter").

R E C I T A L S

WHEREAS, on September 22, 2015, the Department assessed the Transylvania Animal Shelter a civil penalty in the amount of Ten Thousand, One Hundred and Fifty Dollars (\$10,150.00) as a result of the Department's discovery of evidence indicating that the Shelter had in multiple instances violated N.C. Gen. Stat. §19A-32.1(a) and (b) (2015), 02 N.C.A.C. 52J .0402 (2015) and 02 N.C.A.C. 52J .0419(9) (2015); and

WHEREAS, on September 22, 2015, the Department issued the Transylvania Animal Shelter a written Civil Penalty Assessment which, among other things, described in detail the evidence referred to in the preceding paragraph of this Agreement; and

WHEREAS, a true and correct copy of the September 22, 2015 written Civil Penalty Assessment is attached hereto as Exhibit 1 and is incorporated by reference in this Agreement; and

WHEREAS, the Transylvania Animal Shelter disputes certain aspects of the September 22, 2015 written Civil Penalty Assessment; and

WHEREAS, the Transylvania Animal Shelter has the right to contest the September 22, 2015 written Civil Penalty Assessment by filing a petition for a contested case hearing in the North Carolina Office of Administrative Hearings; and

WHEREAS, the parties recognize that litigating the September 22, 2015 written Civil Penalty Assessment would be expensive and time-consuming; and

WHEREAS, the Transylvania Animal Shelter and the Department desire to fully and finally compromise and settle this and all other disputes and controversies between them involving the Department's September 22, 2015 assessment of a civil penalty against the Transylvania Animal Shelter; and

WHEREAS, the Transylvania Animal Shelter and the Department desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department and the Transylvania Animal Shelter agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by reference as if fully set forth herein.

2. By no later than November 16, 2015, the Transylvania Animal Shelter shall develop and submit to the Animal Welfare Section for its approval written proposed policies and procedures detailing euthanasia protocols and record-keeping protocols to be followed henceforth by the Transylvania Animal Shelter. These policies and procedures shall be in compliance with the N.C. Animal Welfare Act and the N.C. Administrative Code and they must be approved by the Director of the Animal Welfare Section of the Veterinary Division of the Department of Agriculture.

3. By no later than December 16, 2015, the Director of the Animal Welfare Section shall notify the Transylvania Animal Shelter in writing that it has either approved or disapproved the written proposed policies and procedures referred to in paragraph 2 of this Agreement above. If the Director finds that the written proposed policies and procedures submitted by the Transylvania Animal Shelter do not comply with the N.C. Animal Welfare Act or the N.C. Administrative Code or if the Department of Agriculture does not approve these policies and procedures, that shall constitute a material breach of this Agreement by the Transylvania Animal Shelter.

4. If the Director approves the Transylvania Animal Shelter's proposed written policies and procedures referred to in paragraph 2 of this Agreement above, the Transylvania Animal Shelter shall, beginning no later than thirty (30) calendar days after the date on which the Director gives the Department's written approval to the Transylvania Animal Shelter's proposed written policies and procedures, provide training to every Transylvania Animal Shelter staff member concerning these policies, procedures and protocols. The Transylvania Animal Shelter shall provide documentation of this training and the names of all training participants and attendees to the Animal Welfare Section of the Veterinary Division of the Department of Agriculture.

5. In compliance with this Agreement and the N.C. Animal Welfare Act, N.C. Gen. Stat. §§19A-20, *et seq.* (2015), the Transylvania Animal Shelter shall henceforth ensure that all of

its employees who work for the Transylvania Animal Shelter and who euthanize any animal has certification as a euthanasia technician from the Animal Welfare Section. In addition, the Transylvania Animal Shelter shall ensure that this certification is kept current and in good standing at all times that the employee is performing the duties of a euthanasia technician.

6. The Transylvania Animal Shelter shall take all such steps as are necessary to ensure that any and all of its current employees who are certified as a euthanasia technician attend certified euthanasia technician training classes that are approved by the Animal Welfare Section. The Transylvania Animal Shelter shall provide proof of such attendance to the Animal Welfare Section of the Veterinary Division of the Department of Agriculture.

7. The Transylvania Animal Shelter shall appoint a third party which shall be unrelated to and independent of the Transylvania Animal Shelter and its staff to periodically (and in no event less frequently than quarterly) audit the records of the Transylvania Animal Shelter for accuracy and compliance with the N.C. Animal Welfare Act, N.C. Gen. Stat. §§19A-20, *et seq.* (2015). The Transylvania Animal Shelter shall retain the results of these audits for a minimum of two (2) years and shall provide the dates of each audit to the Animal Welfare Section.

8. By no later than November 25, 2015, the Transylvania Animal Shelter shall pay the Department the sum of \$5,100.00.

9. Upon its timely receipt from the Transylvania Animal Shelter of the sum of \$5,100.00, as provided in paragraph 8 of this Agreement above, and upon the Transylvania Animal Shelter's full compliance with the other terms of this Agreement, the Department shall stay its enforcement of the remaining civil penalty assessment (in the amount of \$5,050.00).

10. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

11. The parties agree to act in good faith in the implementation of this Agreement.

12. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

13. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

14. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

15. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.

16. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

17. This Agreement shall be binding in perpetuity upon and shall inure to the benefit of the parties, their agents, officers, employees, successors, assigns, heirs, executors and administrators.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION

By: 

Patricia Norris, DVM

Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: 11/19/2015

THE TRANSYLVANIA COUNTY, NORTH
CAROLINA ANIMAL SERVICES SHELTER

By: Jaime Laughter
Jaime Laughter

County Manager, Transylvania County, North
Carolina

Date: 11-17-15

Exhibit 1

**(September 22, 2015 Written Notice of Civil Penalty
Assessment)**



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

September 22, 2015

Transylvania County
Attn: Jaime Laughter, County Manager
101 South Broad Street
Brevard, North Carolina 28712

UPS Tracking Number Signature Required

1Z 210 617 4257 69 6155

NOTICE OF CIVIL PENALTY

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF NORTH CAROLINA GENERAL STATUTES §§ 19A-32.1 (a) & (b) (2) and TITLE 02, N.C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTION .0402

Facility: Transylvania County Animal Services Shelter

Dear County Manager Laughter:

Pursuant to N.C. Gen. Stat. § 19A-40 I am issuing this notice to you that Transylvania County Animal Shelter is assessed a civil penalty of \$10,150.00, as provided in the enclosed Notice of Violations and Order.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing in the NCOAH to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, present your offer to me. I may be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Norris', with a stylized, flowing script.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Assessment Document

cc: R. Douglas Meckes, DVM, North Carolina State Veterinarian
Ms. Tina Hlabse, General Counsel, NCDA&CS
Mr. Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF
TRANSYLVANIA COUNTY
TRANSYLVANIA COUNTY ANIMAL
SERVICES SHELTER

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) N. C. General Statutes §§ 19A-32.1 (a) & (b) (2)
) 02 N.C.A.C 52J .0402
)

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director of the Animal Welfare Section ("AWS"), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter Transylvania County Animal Services Shelter (the "shelter") is an animal shelter registered pursuant to N.C. Gen. Stat. §19A-26.
2. From September 1, 2014 through to the time of the July 21-24, 2015, the only Certified Euthanasia Technician employed by the Transylvania County Animal Services Shelter was Paul Vis.
3. On July 21-24, 2015 AWS Animal Health Technician Joshua James ("Inspector James") visited the shelter as part of a complaint investigation. The records referenced in the body of this document are records gathered by Inspector James during this investigation.
4. On July 21, 2015, Inspector James interviewed Shelter Director Paul Vis. During this interview Inspector James learned the following:
 - a. Director Vis acknowledged being on suspension from his duties at the shelter from September 24, 2014 until October 20, 2014;
 - b. Director Vis acknowledged that upon return from the suspension on October 21, 2014, he modified the euthanasia log by signing his initials to 5 entries for euthanasias occurring during the suspension period.
5. On July 22, 2015, Transylvania County Animal Control Officer David Blackwell provided a written statement acknowledging that he euthanized the pitbull type dog named "Soldier" (Intake number #18043).
6. The euthanasia section of the Shelter kennel card for Soldier (#18043) provided by the complainant shows Blackwell's initials.
7. The entry for Soldier (#18043) in the shelter's euthanasia log has Blackwell's initials.

8. The Shelter kennel card for Soldier (#18043) found by Inspector James in euthanasia files showed the initials of Gosnell and Byrd in the euthanasia section.
9. On July 22, 2015, Transylvania County Animal Control Officer Michael Gosnell provided a written statement acknowledging that he assisted Blackwell in the euthanasia of a pitbull that had completed its rabies quarantine.
10. On July 22, 2015 Transylvania County Animal Control Officer Charles Byrd provided a written statement denying involvement in the euthanasia of this pitbull which he named as "Sailor." He also provided a time card log which showed he was not working on October 20, 2014.
11. Inspector James reviewed the euthanasia files for the shelter from September 1, 2014 to July 21, 2015.
12. Review of these records indicates that there were 205 incidences of euthanasia being performed by staff members that were not certified euthanasia technicians. Forty-six of these euthanasias occurred during the period of time during which Director Vis was suspended.
13. The records show there were 81 incidences of euthanasia being performed on stray animals before the expiration of the 72 hour minimal hold period for reasons other than serious illness or injury.
14. There were more than 100 records in which there was conflicting information between the kennel card and the euthanasia log as to who euthanized the animal or in which incorrect information was entered.

As a result of this investigation, AWS, alleges that the Shelter, either by act or omission, violated the following provisions of the N.C. Administrative Codes:

- a) North Carolina General Statutes §§ 19A-32.1 (a) and (b) (2) – 81 violations
- b) North Carolina Administrative Code 52J .0402 – 205 violations

(See Appendix for text of cited General Statutes and Administrative Codes)

CIVIL PENALTIES

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Transylvania County is assessed a civil penalty of:

- a) \$8100.00 for 81 violations of North Carolina General Statutes §§ 19A-32.1 (a) and (b) (2)
- b) \$2050.00 for 205 violations of North Carolina Administrative Code 52J .0402

\$10,150.00 TOTAL AMOUNT ASSESSED

9/22/2015

Date



Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

N.C. General Statutes 19A-32.1 (a) and (b) (2) and N. C. Administrative Codes 52J .0402 and .0418 (9)

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

(b) Before an animal may be euthanized or otherwise disposed of, it shall be made available for adoption under procedures that enable members of the public to inspect the animal, except in the following cases:

- (1) The animal has been found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament.
- (2) The animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.

§19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6; 1998-215,s.3.)

02 NCAC 52J .0402 AUTHORIZED PERSONS

Only a Certified Euthanasia Technician, Probationary Euthanasia Technician, or a veterinarian licensed to practice veterinary medicine in North Carolina may euthanize an animal in a certified animal shelter. A Certified Euthanasia Technician shall not euthanize animals using a method for which he or she is not currently certified except as specified in 02 NCAC 52J .0700.

*History Note: Authority G.S. 19A-24;
Eff. March 23, 2009.*

02 NCAC 52J .0419 GROUNDS FOR DISCIPLINE - CERTIFIED EUTHANASIA TECHNICIANS

The Department may refuse to issue, renew, or reinstate the certification of a Euthanasia Technician, or may deny, revoke, suspend, sanction, or place on probation, impose other forms of discipline, and enter into consent agreements and negotiated settlements with Certified Euthanasia Technician pursuant to the procedures set forth in G.S. 150B, Article 3, for any of the following reasons:

- (9) Improper Record Keeping. Failure to follow proper record keeping procedures as outlined

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION

)
) SETTLEMENT AGREEMENT
)
)
)
)
) For Violations Of:
) Animal Welfare Act
) N.C. General Statute §§ 19A-24 and
) 19A-32.1 &
) 2 N.C. Administrative Code 52J
) .0419, .0602 & .0609
)

Rowan County Animal Shelter (“RCAS”), Mr. David Yaninas (“Mr. Yaninas”) and the North Carolina Department of Agriculture and Consumer Services (the “Department” or “NCAWS”) desire to fully and finally settle this and all other disputes and controversies surrounding Mr. Yaninas’ actions while serving as an animal control officer and certified euthanasia technician of RCAS, a registered animal shelter operated by Rowan County, North Carolina. Mr. Yaninas, RCAS and the Department desire to affect a full and final settlement solely in order to avoid the burden and expense of continued litigation.

1. At all times pertinent to this matter Mr. Yaninas was employed by Rowan County as a certified euthanasia technician at the RCAS and RCAS was and is an animal shelter registered pursuant to N.C. Gen. Stat. § 19A-26.
2. On January 19, 2014, Mr. Yaninas was working as an animal control officer for Rowan County and responded to responded to stray dog call, intake no. 58345, on South Salisbury Avenue, Granite Quarry, NC, where he found male black and

white Pitbull mix dog severely injured by the road from an apparent automobile collision.

3. Mr. Yaninas submitted a written report of this event, stating that he found the dog at this location, and approached a woman who was standing behind the dog and who identified herself as the dog's owner. Mr. Yaninas recommended that she take the dog to the emergency veterinarian or allow him to take the dog to the animal shelter and humanely euthanize it. The woman verbally gave permission to him to remove the dog to RCAS and euthanize it. Mr. Yaninas did not ask the woman for proof of ownership or get her written consent to euthanize the dog before the end of the statutory 72 hour period.
4. Mr. Yaninas' report states that he gave the woman a "door hanger" and requested that she call RCAS with her information for the report.
5. Mr. Yaninas used a catch pole to lift the dog onto the truck. He stated he did so because the dog weighed approximately fifty pounds and it was necessary to do so to avoid personnel (sic) injury.
6. Mr. Yaninas' report states that he contacted RCAS Manager Staton, explained the dog's condition and received authorization to humanely euthanize the dog. The report does not reflect whether Mr. Yaninas informed Mr. Staton that he intended to use carbon monoxide to euthanize the dog.
7. Mr. Yaninas reported that he humanely euthanized the dog using the carbon monoxide chamber located at RCAS at 8:20 p.m. At that time he was the sole person present at RCAS.
8. Mr. Yaninas report states that euthanasia by lethal injection is "not allowed in the County Policy and Procedures for RCAC for injured animals."
9. Review of RCAS documents of this matter revealed that Mr. Yaninas had not secured written authorization from the dog's owner to permit RCAS to euthanize the dog less than 72 hours after RCAS received the dog.
10. Ms. Keisha Woodard submitted a written complaint to Rowan County Health Department stating, in part:
11. The dog was unable to move his back end, his right eye was hanging out of the socket and he had blood coming out of his mouth, but appeared calm;
12. Mr. Yaninas arrived and asked, "Are y'all the owners?" and "Do you want the dog or not?"

13. The dog's owner stated, "I don't think there is anything that can be done for him."
14. Mr. Yaninas then "took a pole with a loop and yanked that poor dog up off the asphalt and slung him into the cage! The dog was hollering, the lady started screaming and crying, her husband was trying to get her turned around to get her in the truck so she didn't have to witness anything further."
15. Mr. Yaninas "acted as if (he) was doing them a favor by not charging them to put the dog down."
16. On February 7, 2014, Mr. Yaninas submitted a written statement to RCAS Animal Control Supervisor Clai Martin recounting his report and reflecting that:
17. Based upon his observation of the dog, it was injured and not near death;
18. He euthanized the dog without a second person present because he could not stand to see the dog continuing to suffer anymore.
19. On January 9, 2014, RCAS manager Tommy Staton completed and signed a "Reason for Early Euthanasia Report" for animal no. 58345, stating that it was injured, "hit by car, eyeball hanging out could not use back legs."
20. On or about February 7, 2014, RC Animal Control Supervisor Martin issued Mr. Yaninas a written warning, ordered him to go through retraining and undertake sensitivity training.
21. Review of RCAS' euthanasia manual in use on January 19, 2014, revealed that it did include a copy of 02 NCAC Chapter 52J, section .0601 et seq.
22. Review of RCAS' euthanasia manual in use on January 19, 2014, revealed that it did not authorize the use of carbon monoxide to euthanize animals that are severely injured and/or near death.
23. The Department has been informed by counsel for Rowan County that Mr. Yaninas otherwise been an exemplary employee during his three years of employment.
24. As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, determined that RCAS, and Mr. Yaninas, either by act or omission, violated the following provisions of the N.C. General Statute:
 - a) N.C. Gen. Stat. § 19A-24
 - b) N.C. Gen. Stat. § 19A-32.1
 - c) North Carolina Administrative Code 52J .0419

d) North Carolina Administrative Code 52J .0602

e) North Carolina Administrative Code 52J .0609

1. On February 17, 2014, the Department issued an Order suspending Mr. Yaninas' certification of as a euthanasia technician and assessing him and RCAS civil penalties of \$1,000.00 each.
2. On or about March 6, Mr. Yaninas filed a Petition for Contested Case Hearing with the North Carolina Office of Administrative Hearings, assigned file number 14 DAG 01524, appealing the Department's assessment of a civil penalty against him and suspension of his certification as a euthanasia technician. Rowan County has no contested its civil penalty.

WHEREAS the parties desire to resolve this matter without further litigation.

NOW THEREFORE, the parties agree as follows:

1. Mr. Yaninas and RCAS agree that, upon signing this negotiated Settlement Agreement, they thereby waive their rights to appeal the Department's decision to suspend Mr. Yaninas' certification as a euthanasia technician and to impose civil penalties of one thousand dollars (\$1,000.00) upon each of them for the acts and omissions set forth above, to the North Carolina Office of Administrative Hearings and/or any court or tribunal having jurisdiction over them, the Department and the Department's exercise of its lawful authority. Further, Mr. Yaninas shall, within ten days of receiving notice that the Department has accepted this Settlement Agreement, sign and file with the North Carolina Office of Administrative Hearings a voluntary dismissal with prejudice pursuant to N.C. R.C.P. Rule 41(a) in the case captioned, "David M. Yaninas, Petitioner, v. North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Respondent," file no. 14 DAG 01524.

2. The Department shall stay imposition of six hundred dollars (\$600.00) of Mr. Yaninas' civil penalty of one thousand dollars (\$1,000.00). Mr. Yaninas shall pay the sum of

four hundred dollars (\$400.00) within thirty (30) days of receipt of notice of the Department's acceptance of this Settlement Agreement. The remainder of the civil penalty, six hundred dollars (\$600.00) shall remain stayed for a period of nine months according to the terms and conditions set forth in paragraphs three, four, five and six below. The Department hereby stays imposition of five hundred dollars of the one thousand dollar (\$1,000.00) civil penalty imposed upon RCAS from one thousand dollars to five hundred dollars (\$500.00). RCAS shall pay five hundred dollars (\$500.00) to the Department within thirty (30) days of receipt of notice of the Department's acceptance of this Settlement Agreement. The remainder of the civil penalty, five hundred dollars (\$500.00) shall remain stayed for a period of nine months according to the terms and conditions set forth in paragraphs three, four, five and six, below;

3. The parties agree that, if RCAS and Mr. Yaninas fully and faithfully satisfy the requirements of this Settlement Agreement and the Department finds no new violations of the North Carolina Animal Welfare Act or the rules promulgated thereunder for a period of nine months after this Settlement Agreement is signed by the Department's authorized representative, then the stayed portions of RCAS' and Mr. Yaninas' civil penalties shall be deemed cancelled;

4. The Department agrees to lift the suspension of Mr. Yaninas' euthanasia technician certification upon his satisfactory completion of the following requirements:

- a) Mr. Yaninas shall inform the director of the Animal Welfare Section of his intention to complete the qualification course for certification as a euthanasia technician, stating the date, location, and name of instructor giving the course. The Department reserves the right to disapprove of the instructor and direct Mr. Yaninas to complete the course under the instruction of an instructor it approves;

b) Mr. Yaninas shall attend said certification course, successfully complete the written examination for certification and successfully complete the practical examination for the methods of euthanasia for which he wishes to be certified, except for CO, which the parties expressly agree will not be restored by the Department, within nine months from the date he receives notice that the Department has approved this Settlement Agreement. It is understood by the parties that if Mr. Yaninas fails either or both the written and practical examinations he attempts after attending the certification course, he may attempt to pass the examination(s) he failed without retaking the certification course or the examination he has already passed so long as he passes both examinations within the nine month period provided. If he fails to pass both examinations within said nine month period, he may only seek restoration of his euthanasia technician certification by submitting a new application;

c) Upon receipt of confirmation from the course instructor that Mr. Yaninas has attended the course and successfully passed the certification examinations, the Department shall lift its suspension of Mr. Yaninas' certification as a euthanasia technician except for his privileges to operate the CO chamber located on the grounds at RCAS. The privilege of operating said CO chamber shall remain in full force and effect for nine months running from the date the Department approves this agreement. Mr. Yaninas may serve as the second person present while another certified euthanasia technician or a veterinarian operates the CO chamber. Upon completion of said nine month period, Mr. Yaninas may apply for reinstatement of his privilege of operating the CO chamber on the grounds at RCAS;

5. If the Department receives information that RCAS or Mr. Yaninas, while acting in his capacity as a certified euthanasia technician at RCAS, has committed another violation of the North Carolina Animal Welfare Act or the rules promulgated thereunder, whether relating to animal euthanasia or any other aspect of the laws or rules applicable to animal shelters under the North Carolina Animal Welfare Act, or information that RCAS or Mr. Yaninas has otherwise failed to comply with this Settlement Agreement, the Department may, as a matter within its sound discretion, lift the stay of RCAS's remaining civil penalty and/or lift the stays and impose the remaining portions of both of their civil penalties, together or separately;

6. If Mr. Yaninas notifies the Department before the expiration of said nine month period to request additional time in which to attend said course, informing the Department of the circumstances that shall prevent him from doing so by his deadline, the Department shall inform Mr. Yaninas of the date and location of the next available approved CET training course to be held no farther than 200 miles from his place of residence and that his successful completion of said course is required for his continued compliance with this Settlement Agreement. If Mr. Yaninas fails to comply with said requirement or any other obligation established by this Settlement Agreement or any subsequent amendment to it, the Department may, as a matter within its sound discretion, lift the stay and reimpose his obligation to pay the remainder of his civil penalty of six hundred dollars (\$600.00);

7. The RCAS and Mr. Yaninas acknowledge that, upon acceptance and execution of this settlement agreement by the Department, the settlement agreement shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;

8. The parties agree to act in good faith in the implementation of this agreement;

9. The parties may discuss this Settlement Agreement, provide any pertinent documents and the final executed written Settlement Agreement to the press and the public, in accordance with N.C. Gen. Stat. Chapter 132. Further, the parties agree to bear their own attorneys' fees and costs;

10. It is understood between the parties that this Settlement Agreement contains the entire agreement between the parties hereto regarding the matters set forth, and it supersedes all previous negotiations, discussions and understandings regarding such matters. Terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto;

11. The effective date of this settlement agreement will be the date on which it has been executed by all parties as shown on the signature lines below;

12. North Carolina law shall govern the interpretation and enforcement of this Agreement.

IN TESTIMONY WHEREOF, the parties have set their hands and seals on the dates indicated below:



DAVID M. YANINAS, Individually

Date: 03/24/14



Gary Page, County Manager
As authorized agent for Rowan County Animal Shelter

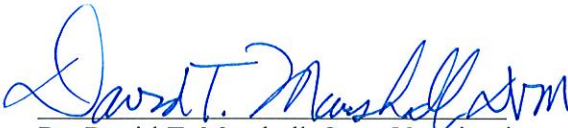
Date: 3/24/14

FOR THE DEPARTMENT:



Barry H. Bloch
Assistant Attorney General
N.C. Department of Justice
ATTORNEY FOR THE DEPARTMENT

Date: 3/31/2014



Dr. David T. Marshall, State Veterinarian
North Carolina Department of Agriculture & Consumers Services

Date: 3/31/14

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 13th day of November 2015 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as either the "Department of Agriculture," the "Department" or the "Animal Welfare Section of the Veterinary Division of the Department of Agriculture"), and Michelle Starnes, Petitioner (hereinafter referred to as the "Petitioner or Ms. Starnes").

R E C I T A L S

WHEREAS, on February 18, 2015, the Department assessed the Petitioner a civil penalty in the amount of One Thousand, Five Hundred Dollars (\$1,500.00) as a result of the Department's discovery of evidence leading the Department to conclude that the Petitioner had in multiple instances violated Title 2 North Carolina Administrative Code 02 NCAC 52J .0418 and .0419; and

WHEREAS, on February 18, 2015, the Department issued the Petitioner a written Civil Penalty Assessment which, among other things, described in detail the evidence referred to in the preceding paragraph of this Agreement; and

WHEREAS, a true and correct copy of the February 18, 2015 written Civil Penalty Assessment is attached hereto as Exhibit 1 and is incorporated by reference in this Agreement; and

WHEREAS, the Petitioner disputes the February 18, 2015 written Civil Penalty Assessment; and

WHEREAS, the Petitioner filed a petition for a contested case hearing in the North Carolina Office of Administrative Hearings challenging the February 18, 2015 written Civil Penalty Assessment; and

WHEREAS, the Administrative Law Judge dismissed Petitioner's contested case petition in a June 25, 2015 Final Decision Order of Dismissal; and

WHEREAS, the Petitioner filed a July 23, 2015 petition for judicial review; Michelle Starnes, Petitioner, vs. Patricia Norris, DVM, Director Animal Welfare Division, North Carolina Department of Agriculture & Consumer Services, Respondent; 15 CVS 01854, in the Union County Superior Court in which she petitioned the Court to reverse or remand the Administrative Law Judge's decision; and

WHEREAS, the parties recognize that continued litigation over the February 18, 2015 written Civil Penalty Assessment would be expensive and time-consuming; and

WHEREAS, the Petitioner and the Department desire to fully and finally compromise and settle this and all other disputes and controversies between them involving the Department's February 18, 2015 assessment of a civil penalty against the Petitioner; and

WHEREAS, the Petitioner and the Department desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of continued litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department of Agriculture and the Petitioner agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by this reference as if fully set forth herein.

2. By no later than November 13, 2015, the Petitioner shall file a Dismissal with Prejudice of the case entitled, *Michelle Starnes, Petitioner, vs. Patricia Norris, DVM, Director Animal Welfare Division, North Carolina Department of Agriculture & Consumer Services, Respondent*; 15 CVS 01854, in the Office of the Union County, North Carolina, Clerk of Superior Court. On the same date, the Petitioner shall serve a file-stamped copy of said Dismissal With Prejudice on counsel for the Department.

3. Upon its counsel's receipt from the Petitioner of her Dismissal With Prejudice of *Michelle Starnes, Petitioner vs. Patricia Norris, DVM, Director Animal Welfare Division, North Carolina Department of Agriculture & Consumer Services, Respondent*; 15 CVS 01854, as provided in paragraph 2 of this Agreement above, and upon the Petitioner's full compliance with the other terms of this Agreement, the Department shall stay its enforcement of the civil penalty assessment (in the amount of \$1,500.00); provided that, upon any future violation by the Petitioner of the Animal Welfare Act, N.C. Gen. Stat. §19A-20, *et seq.*, the full amount of the civil penalty assessment (in the amount of \$1,500.00) shall be reinstated.

4. Notwithstanding the Petitioner's signature below, the Petitioner denies any and all liability relating to the written Civil Penalty Assessment and denies the allegations and other statements contained in the written Civil Penalty Assessment.

5. By their respective signatures below, the Petitioner and the Respondent each acknowledge that they have entered into this Agreement voluntarily and that they have done so after having ample opportunity to review this Agreement with any individual, advisor and counsel they desired.

6. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

7. The parties agree to act in good faith in the implementation of this Agreement.

8. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

9. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

10. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

11. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.

12. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

13. This Agreement shall be binding in perpetuity upon and shall inure to the benefit of the parties, their agents, officers, employees, successors, assigns, heirs, executors and administrators.

Agreement continues on the following pages.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below.

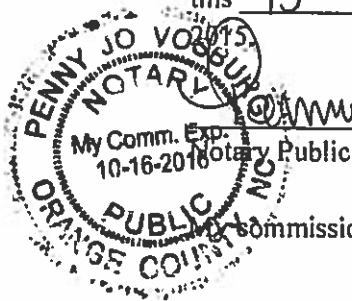
THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION

By: 

Patricia Norris

Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Subscribed and sworn to before me
this 13th day of November




Notary Public

My commission expires: Oct. 16, 2016

MICHELLE STARNES, PETITIONER

By: 

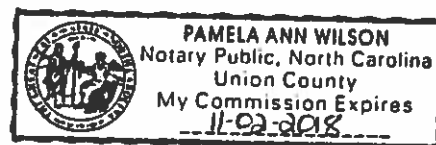
Michelle Starnes

The Petitioner

Subscribed and sworn to before me
this 6th day of November
2015.



Notary Public

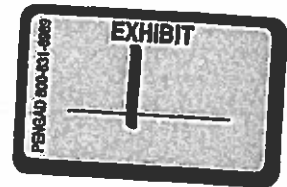


My commission expires: 11-02-2018

11-02-2018

Exhibit 1

**(February 18, 2015 Written Notice of Civil Penalty
Assessment)**



STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF
MICHELLE STARNES

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) 2 N.C. Administrative Code 52J
) .0418 and .0419

Acting pursuant to N.C. Gen. Stat. §§ 19A-24 and -40, Dr. Patricia Norris, Director of the Animal Welfare Section, Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter Michelle Starnes ("Starnes") was a certified euthanasia technician ("CET") registered with the Animal Welfare Section, Veterinary Division, NCDA&CS ("AWS"), and on record as being employed by Union County Animal Services pursuant to N.C. Gen. Stat. § 19A-24(b)(8).
2. On December 3, 2014, AWS Inspector Jay Blatche ("Ins. Blatche") conducted a euthanasia inspection at the animal shelter operated by Humane Society of Concord and Greater Cabarrus County ("HSC&GCC").
3. In the course of this inspection Ins. Blatche was informed that:
 - a. Before June 30, 2014, Dr. A. M. McClone, DVM, had performed all euthanasias at HSC&GCC;
 - b. From June 30, 2014, to July 31, 2014, HSC&GCC contracted with a local veterinarian who provided a veterinary technician, Mindy Joyner, an employee of Cabarrus Animal Hospital, to euthanize animals in the facility; and
 - c. From August 21, 2014, to December 3, 2014 (the date of the inspection), animals in the facility were euthanized by "several employees" who were CETs, who were from Union County, who were not under contract with HSC&GCC.
4. On December 22, 2014, Ins. Blatche and Outreach Coordinator Joe Blomquist ("OC Blomquist") visited HSC&GCC to ask additional questions regarding the names of the persons who are euthanizing animals at that facility.
5. HSC&GCC's representative, Ms. Judy Simms, told Ins. Blatche and OC Blomquist that all animal euthanasia at the facility is done by Cabarrus County in a room set aside for that purpose.
6. Ms. Simms stated that Starnes and Chris Royal were euthanizing animals for Cabarrus County but she did not know who hired them, who paid them or what arrangement they had with Cabarrus County.

7. On the same day Ins. Blatche and OC Blomquist met with Cabarrus County's animal control manager, LT David Taylor, who told them that:
 - a. Starnes and Chris Royal euthanize the animals at HSC&GCC's facility;
 - b. Starnes and Chris Royal are not employees of HSC&GCC or of Cabarrus County Animal Control;
 - c. There is no written agreement between Cabarrus County and Union County regarding Starnes euthanizing animals at HSC&GCC;
 - d. There is no written agreement between "Dr. Brent" and Cabarrus County Animal Control regarding Chris Royal euthanizing animals at HSC&GCC;
 - e. Starnes and Chris Royal euthanize animals at HSC&GCC in the morning before the facility opens;
 - f. Union County gave permission to Starnes to euthanize animals at HSC&GCC;
 - g. He did not know whether Dr. Brent gave permission to Chris Royal to euthanize animals at HSC&GCC;
 - h. No one in Cabarrus County Animal Control had informed AWS that Starnes or Chris Royal were euthanizing animals at HSC&GCC;
 - i. No veterinarian was present when Starnes and Chris Royal euthanized animals at HSC&GCC;
 - j. He believed that both Starnes and Chris Royal were certified as euthanasia technicians by AWS; and
 - k. Starnes and Chris Royal used Cabarrus County Animal Control's euthanasia drugs and LT Taylor or one of his officers was present to provide the drugs and hold the animals, when necessary, while animals were being euthanized.
8. LT Taylor stated that Starnes and Chris Royal were employed and paid by Dr. Brent E. Glenn, DVM ("Dr. Glenn"), to euthanize animals at HSC&GCC for Cabarrus County.
9. Starnes told Ins. Blatche that she began euthanizing animals at Cabarrus County Animal Shelter ("CCAS") in August 2014, using injected euthanasia drugs provided under Cabarrus County's DEA license.
10. Starnes told Ins. Blatche that she euthanized approximately 20 animals each week for Cabarrus County Animal Control at HSC&GCC.
11. Starnes told Ins. Blatche that she was paid to euthanize animals for Cabarrus County Animal Control at HSC&GCC by Dr. Glenn.
12. Starnes stated that Dr. Glenn does not withhold taxes from her pay but would provide her with a W-9 form at the end of the year.
13. Starnes admitted that her certification did not authorize her to euthanize animals for Cabarrus County Animal Control at HSC&GCC.
14. Starnes stated that she did not represent to Cabarrus County Animal Control that she was certified to euthanize animals at HSC&GCC; rather, she did so as Dr. Glenn's employee.
15. Starnes stated that while she was euthanizing animals for Cabarrus County Animal Control at HSC&GCC, she saw Chris Royal also euthanizing animals for Cabarrus County Animal Control at HSC&GCC.
16. Starnes stated that Chris Royal was also paid by Dr. Glenn to euthanize animals for Cabarrus

County Animal Control at HSC&GCC.

17. Dr. Patricia Norris, Director of Animal Welfare Section, NCDA&CS, spoke by telephone with Dr. Glenn on February 2, 2015.
18. Dr. Glenn told Dr. Norris that he had never been to the animal shelter facility operated by Cabarrus County.
19. Dr. Glenn stated that he believes that Cabarrus County Animal Control asked Starnes to euthanize animals in their facility.
20. Dr. Glenn stated that Starnes came to him to ask him to "run the money through him."
21. Dr. Glenn said that Starnes told him that she and Chris Royal were certified to perform euthanasia and could euthanize at Cabarrus County Animal Shelter.
22. Dr. Glenn stated that he made arrangements to bill for and accept payments from Cabarrus County, keeping ten percent of payments received and paying the rest of the money to Starnes.
23. Dr. Glenn stated that Cabarrus County provided the euthanasia drugs to Starnes and Chris Royal.
24. Dr. Glenn stated that Starnes and Chris Royal euthanized the animals and completed the records and paperwork.
25. At no time has CCAS ever reported to AWS that it employs Starnes as a CET in its facility.
26. Starnes knew or should have known that, from August 21, 2014, to December 3, 2014, Chris Royal was not certified by AWS to euthanize animals in North Carolina.
27. Chris Royal's certification as a euthanasia technician in North Carolina was cancelled when she left employment at Iredell County Animal Shelter on April 18, 2013.

As a result of this investigation, NCDA&CS, Veterinary Division, AWS alleges that Starnes, either by act or omission, violated the following provisions of the N.C. Administrative Codes: North Carolina Administrative Code 52J .0418(6) and .0419(1), (4) and (7). See Appendix for cited NC Administrative Codes.

§19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6; 1998-215,s.3.)

III. DECISION

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Starnes is assessed a civil penalty of: \$1,500.00 for violating Title 2 North Carolina Administrative Code 02 NCAC 52J .0418 and .0419.

\$1,500.00 TOTAL AMOUNT ASSESSED

2/18/2015
Date

Patricia Norris
Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF
MICHELLE STARNES

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) 2 N.C. Administrative Code 52J
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 - g. He did not know whether Dr. Brent gave permission to Chris Royal to euthanize animals at HSC&GCC;
 - h. No one in Cabarrus County Animal Control had informed AWS that Starnes or Chris Royal were euthanizing animals at HSC&GCC;
 - i. No veterinarian was present when Starnes and Chris Royal euthanized animals at HSC&GCC;
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24. Dr. Glenn stated that Starnes and Chris Royal euthanized the animals and completed the records and paperwork.
25. At no time has CCAS ever reported to AWS that it employs Starnes as a CET in its facility.
26. Starnes knew or should have known that, from August 21, 2014, to December 3, 2014, Chris Royal was not certified by AWS to euthanize animals in North Carolina.
27. Chris Royal's certification as a euthanasia technician in North Carolina was cancelled when she left employment at Iredell County Animal Shelter on April 18, 2013.

As a result of this investigation, NCDA&CS, Veterinary Division, AWS alleges that Starnes, either by act or omission, violated the following provisions of the N.C. Administrative Codes: North Carolina Administrative Code 52J .0418(6) and .0419(1), (4) and (7). See Appendix for cited NC Administrative Codes.

§19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6; 1998-215,s.3.)


III. DECISION

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Starnes is assessed a civil penalty of: \$1,500.00 for violating Title 2 North Carolina Administrative Code 02 NCAC 52J .0418 and .0419.

\$1,500.00 TOTAL AMOUNT ASSESSED

2/18/2015
Date


Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 14th day of October 2015 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as either the "Department" or the "Animal Welfare Section"), and the Transylvania County, North Carolina Animal Services Shelter, located at 1124 Old Rosman Highway, Brevard, North Carolina 28712, an agency of Transylvania County, North Carolina (hereinafter referred to as the "Transylvania Animal Shelter" or the "Shelter").

R E C I T A L S

WHEREAS, on September 22, 2015, the Department assessed the Transylvania Animal Shelter a civil penalty in the amount of Ten Thousand, One Hundred and Fifty Dollars (\$10,150.00) as a result of the Department's discovery of evidence indicating that the Shelter had in multiple instances violated N.C. Gen. Stat. §19A-32.1(a) and (b) (2015), 02 N.C.A.C. 52J .0402 (2015) and 02 N.C.A.C. 52J .0419(9) (2015); and

WHEREAS, on September 22, 2015, the Department issued the Transylvania Animal Shelter a written Civil Penalty Assessment which, among other things, described in detail the evidence referred to in the preceding paragraph of this Agreement; and

WHEREAS, a true and correct copy of the September 22, 2015 written Civil Penalty Assessment is attached hereto as Exhibit 1 and is incorporated by reference in this Agreement; and

WHEREAS, the Transylvania Animal Shelter disputes certain aspects of the September 22, 2015 written Civil Penalty Assessment; and

WHEREAS, the Transylvania Animal Shelter has the right to contest the September 22, 2015 written Civil Penalty Assessment by filing a petition for a contested case hearing in the North Carolina Office of Administrative Hearings; and

WHEREAS, the parties recognize that litigating the September 22, 2015 written Civil Penalty Assessment would be expensive and time-consuming; and

WHEREAS, the Transylvania Animal Shelter and the Department desire to fully and finally compromise and settle this and all other disputes and controversies between them involving the Department's September 22, 2015 assessment of a civil penalty against the Transylvania Animal Shelter; and

WHEREAS, the Transylvania Animal Shelter and the Department desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department and the Transylvania Animal Shelter agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by reference as if fully set forth herein.
2. By no later than November 16, 2015, the Transylvania Animal Shelter shall develop and submit to the Animal Welfare Section for its approval written proposed policies and procedures detailing euthanasia protocols and record-keeping protocols to be followed henceforth by the Transylvania Animal Shelter. These policies and procedures shall be in compliance with the N.C. Animal Welfare Act and the N.C. Administrative Code and they must be approved by the Director of the Animal Welfare Section of the Veterinary Division of the Department of Agriculture.
3. By no later than December 16, 2015, the Director of the Animal Welfare Section shall notify the Transylvania Animal Shelter in writing that it has either approved or disapproved the written proposed policies and procedures referred to in paragraph 2 of this Agreement above. If the Director finds that the written proposed policies and procedures submitted by the Transylvania Animal Shelter do not comply with the N.C. Animal Welfare Act or the N.C. Administrative Code or if the Department of Agriculture does not approve these policies and procedures, that shall constitute a material breach of this Agreement by the Transylvania Animal Shelter.
4. If the Director approves the Transylvania Animal Shelter's proposed written policies and procedures referred to in paragraph 2 of this Agreement above, the Transylvania Animal Shelter shall, beginning no later than thirty (30) calendar days after the date on which the Director gives the Department's written approval to the Transylvania Animal Shelter's proposed written policies and procedures, provide training to every Transylvania Animal Shelter staff member concerning these policies, procedures and protocols. The Transylvania Animal Shelter shall provide documentation of this training and the names of all training participants and attendees to the Animal Welfare Section of the Veterinary Division of the Department of Agriculture.
5. In compliance with this Agreement and the N.C. Animal Welfare Act, N.C. Gen. Stat. §§19A-20, *et seq.* (2015), the Transylvania Animal Shelter shall henceforth ensure that all of

its employees who work for the Transylvania Animal Shelter and who euthanize any animal has certification as a euthanasia technician from the Animal Welfare Section. In addition, the Transylvania Animal Shelter shall ensure that this certification is kept current and in good standing at all times that the employee is performing the duties of a euthanasia technician.

6. The Transylvania Animal Shelter shall take all such steps as are necessary to ensure that any and all of its current employees who are certified as a euthanasia technician attend certified euthanasia technician training classes that are approved by the Animal Welfare Section. The Transylvania Animal Shelter shall provide proof of such attendance to the Animal Welfare Section of the Veterinary Division of the Department of Agriculture.

7. The Transylvania Animal Shelter shall appoint a third party which shall be unrelated to and independent of the Transylvania Animal Shelter and its staff to periodically (and in no event less frequently than quarterly) audit the records of the Transylvania Animal Shelter for accuracy and compliance with the N.C. Animal Welfare Act, N.C. Gen. Stat. §§19A-20, *et seq.* (2015). The Transylvania Animal Shelter shall retain the results of these audits for a minimum of two (2) years and shall provide the dates of each audit to the Animal Welfare Section.

8. By no later than November 25, 2015, the Transylvania Animal Shelter shall pay the Department the sum of \$5,100.00.

9. Upon its timely receipt from the Transylvania Animal Shelter of the sum of \$5,100.00, as provided in paragraph 8 of this Agreement above, and upon the Transylvania Animal Shelter's full compliance with the other terms of this Agreement, the Department shall stay its enforcement of the remaining civil penalty assessment (in the amount of \$5,050.00).

10. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

11. The parties agree to act in good faith in the implementation of this Agreement.

12. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

13. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

14. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

15. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.

16. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

17. This Agreement shall be binding in perpetuity upon and shall inure to the benefit of the parties, their agents, officers, employees, successors, assigns, heirs, executors and administrators.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION

By: 

Patricia Norris, DVM

Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: 11/19/2015

THE TRANSYLVANIA COUNTY, NORTH
CAROLINA ANIMAL SERVICES SHELTER

By: Jaime Laughter
Jaime Laughter

County Manager, Transylvania County, North
Carolina

Date: 11-17-15

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 19 day of July 2016 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as either the "Department" or the "Animal Welfare Section"), and the United Animal Coalition, Inc., (hereinafter "UAC") formerly d/b/a Guilford County Animal Shelter, located at 4525 Wendover Avenue, Greensboro, Guilford County, North Carolina 27409 (hereinafter the "Guilford County Shelter") and d/b/a Davidson County Animal Shelter, 490 Glendale Road, Lexington, Davidson County, North Carolina (hereinafter the "Davidson County Shelter").

R E C I T A L S

WHEREAS, on November 16, 2015, the Department assessed UAC a civil penalty in the amount of Two Hundred and Ninety Thousand Dollars (\$290,000.00) as a result of the Department's discovery of evidence indicating that UAC had in multiple instances violated 02 N.C.A.C. 52J .0210(c) and (d) (2015) at the Guilford County Shelter; and

WHEREAS on November 16, 2015, the Department assessed UAC a civil penalty in the amount of Ten Thousand Dollars (\$10,000.00) as a result of the Department's discovery of evidence indicating that UAC had in multiple instances violated 02 N.C.A.C. 52J .0210(b) and (c) at the Davidson County Shelter; and

WHEREAS, on November 16, 2015, the Department issued UAC written Civil Penalty Assessments which, among other things, described in detail the evidence referred to in the preceding paragraphs of this Agreement; and

WHEREAS, a true and correct copy of the November 16, 2015 written Civil Penalty Assessments are attached hereto as Exhibit 1 (Guilford County Shelter) and Exhibit 2 (Davidson County Shelter) and are incorporated by reference in this Agreement; and

WHEREAS, UAC disputes the November 16, 2015 written Civil Penalty Assessments; and

WHEREAS, UAC has the right to contest the November 16, 2015 written Civil Penalty Assessments by filing a petition for a contested case hearing in the North Carolina Office of Administrative Hearings; and

WHEREAS, UAC has dissolved its status as a North Carolina nonprofit corporation pursuant to N.C. Gen. Stat. § 55A-14-03; and

WHEREAS, a true and correct copy of UAC's Articles of Dissolution are attached as Exhibit 3 and are incorporated by reference in this Agreement; and

WHEREAS, UAC has transferred the entire balance of its bank account containing "Susie's Fund," in the amount of \$233,636.90, to Guilford County to be used for providing abused, neglected and injured animals in the Guilford County Animal Shelter with medical care in accordance with the purpose for which these funds were originally donated and in accordance with the donors' intent; and

WHEREAS, UAC has transferred the entire balance of its bank account containing the "Building Fund," in the amount of \$31,108.92, to Guilford County to be used for capital improvement on the Guilford County Animal Shelter in accordance with the purpose for which these funds were originally donated and in accordance with the donors' intent; and

WHEREAS, UAC has transferred all real and personal property used at the Guilford County Animal Shelter while operating the Guilford County Animal Shelter to Guilford County per UAC's contract with Guilford County; and

WHEREAS, UAC has shown that, after transferring these sums and paying its outstanding invoices and debts, UAC has no remaining assets from which any civil penalty assessments could be collected; and

WHEREAS, the parties recognize that litigating the November 16, 2015 written Civil Penalty Assessments would be expensive and time-consuming; and

WHEREAS, UAC and the Department desire to fully and finally compromise and settle this and all other disputes and controversies between them involving the Department's November 16, 2015 assessments of civil penalties against UAC; and

WHEREAS, UAC and the Department desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department and UAC agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by reference as if fully set forth herein.

2. UAC, and its Board of Directors, agree that UAC shall remain dissolved as a North Carolina non-profit corporation and will not be reincorporated or reformed, in any form or under any alternate name, for the purposes of acting as or operating an animal shelter as defined by N.C. Gen. Stat. § 19A-23(5).

3. Given the promises, obligations and representations of UAC and its Board of Directors, as reflected in this Agreement, and the showing that UAC has no remaining assets from which the Department could collect the civil penalties assessed, by its signature below, the Department hereby waives the civil penalties assessed against UAC on November 16, 2015.

4. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

5. The parties agree to act in good faith in the implementation of this Agreement.

6. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

7. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described herein, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

8. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

9. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.


10. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

11. This Agreement shall be binding in perpetuity upon and shall inure to the benefit of the parties, their agents, officers, employees, successors, assigns, heirs, executors and administrators.

Agreement continues on the follow pages.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION


By: 

Patricia Norris, DVM

Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: 7/19/2016

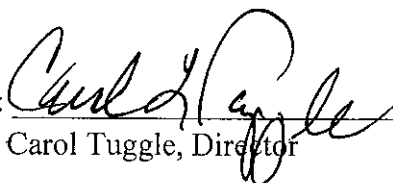
UNITED ANIMAL COALITION, INC.

By: 
Carolyn Cudd, Director

Date: 7/7/16

By: 
John Merman, Director

Date: 7/6/16

By: 
Carol Tuggle, Director

Date: 7/13/2016

Exhibit 1

**November 16, 2015
Guilford County Shelter
Civil Penalty Assessment**



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

November 16, 2015

A. Scott Jackson
Registered Agent
United Animal Coalition
701 Green Valley Road
Greensboro, NC 27408

NOTICE OF CIVIL PENALTY

**Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N. C.
ADMINISTRATIVE CODE, CHAPTER 52J, SECTION .0210 (c) and .0210 (d).
Facility: Guilford County Animal Shelter**

Dear Mr. Jackson:

Pursuant to N. C. General Statute § 19A-40 I am issuing this notice to you that the United Animal Coalition is assessed a civil penalty of \$290,000.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N. C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment of filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("OAH"). Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Norris', with a stylized flourish at the end.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

UNITED ANIMAL COALITION DBA
GUILFORD COUNTY ANIMAL SHELTER

)
) NOTICE OF VIOLATIONS
) ASSESSMENT OF CIVIL PENALTY
)
) FOR VIOLATIONS OF
) 02 NCAC 52J (c) and (d)

Acting pursuant to N.C. Gen. Stat. § 19A-30, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. On August 4, 2015, Dr. Patricia Norris, Director, AWS, NCDA&CS conducted a complaint investigation on the premises of the United Animal Coalition DBA Guilford County Animal Shelter ("UAC"), located at 4525 W. Wendover Avenue, Greensboro, NC, concerning the lack of care of an injured dog. Her findings are as follows:
 - a) Upon inspection, Dr. Norris located the dog that was the subject of the complaint in the general intake area. Dr. Norris was able to confirm the severity of the injuries and the extent of suffering by observation and physical examination.
 - b) Upon examination the dog had multiple fractures and severely swollen rear legs, was unable to stand, had bloody urine, multiple abrasions and was severely dehydrated.
 - c) Review of this dog's records revealed that the dog had been in the custody of the shelter for four (4) days. On intake it was noted that the dog was possibly hit by a car, had a broken back right leg, puncture on the inside of the right leg, abdomen scraped and bruised, bloody urine and would not eat. Records further indicate that the dog was placed on "medications through the stray period." There was no record of a veterinary examination.
2. On August 11, 2015, Dr. Norris returned to the shelter to continue her complaint investigation. Dr. Norris' review of UAC records included review of UAC's Annual Program of Veterinary Care dated May 12, 2015 that was submitted to AWS with its license application. UAC's Annual Program of Veterinary Care indicated that "[a]ll ill or injured animals are removed from the general public and placed in our sick isolation areas. Veterinary Technicians provide medication prescribed by our veterinarian as she directs. **Any severely ill or injured animals are taken to outside veterinarians for immediate evaluation and veterinarians' recommendations and protocol are followed.**" (emphasis added) Dr. Norris' review of UAC records found more than a hundred documented instances of inadequate veterinary care and failure to comply with the submitted Annual Program of Veterinary Care. Each of these constitute a separate violation of the North Carolina Animal Welfare Act. The most egregious of these violations are listed below:
 - a) A dog with a prolapsed rectum was taken in and on intake was placed on "pain meds thru stray period." A computerized medical summary indicated that the dog was healthy on intake. The dog was euthanized four (4) days after intake. There is no record of any veterinary examination given.

- b) A cat with a shattered back leg, bloody urine, possible spinal injury and internal bleeding was housed at the shelter for seven (7) days before it was euthanized. Upon intake the cat was placed on "pain meds thru stray period." Pain medication is documented for only five of the seven days. There is no record of any veterinary examination during this time period.
- c) A dog with a gunshot wound below its right eye, with bloodshot and protruding right eye was housed for twelve (12) days before it was euthanized. Upon intake the dog was noted to be "placed on pain meds." Medication is only documented for the date of intake. There is no record of any veterinary examination or antibiotic administration during this time period.
- d) A dog hit by a car was taken in and assessed as non-weight bearing on back legs and possibly no feeling in his right hind legs. Records indicated that the dog was placed on pain medication through the "stray period" and was not euthanized until six (6) days after intake. There is no record of any veterinary examination during this time period.
- e) A cat was taken into the shelter and noted to have a twisted spine, possibly broken, and a broken back leg. There is no record of medical treatment being provided to the cat. The cat was not euthanized until more than twenty-four (24) hours after intake.
- f) A dog that was hit by a car and noted on intake to have a ruptured left eye, labored breathing, possible internal injuries and bleeding, possible broken leg and multiple abrasions was placed on medication "thru stray" period. Dog was signed over to the shelter by its owner. Dog was not euthanized until four (4) days after intake. There is no record of any veterinary examination during this time.
- g) A kitten with a broken right leg that appeared to be broken at the hip was placed on pain medication on intake and noted to be re-evaluated after "stray" period. There is no documented veterinary exam and the cat was not euthanized until four (4) days after intake.
- h) A dog that was hit by a car was observed on intake to have large amounts of road rash on his back end, unable to use his back legs and was placed on pain meds. The dog was surrendered by owner without proof of ownership. The dog was not euthanized until four (4) days after intake. There is no record of any veterinary examination, wound treatment or antibiotics given.
- i) A cat with a broken right leg was placed on pain medication at intake. The cat was not euthanized until four (4) days after intake. There is no record of any veterinary examination.
- j) A cat that was hit by a car with its tail degloved and small abrasion below its right eye was placed on pain meds at intake and noted to be "re-eval after stray period." The cat was euthanized four (4) days after intake. There is no record of any veterinary examination, wound treatment or antibiotics given.
- k) A cat with a possible broken right leg and covered in healed and healing bite wounds on intake was "placed on pain meds thru stray" period. There was no documented veterinary exam, wound treatment or antibiotics given. The cat was euthanized four (4) days after intake.
- l) A cat noted to have abscessed bite wounds on the left side of its face and unable to see out of its left eye was placed on pain meds at intake. The cat died in its kennel four (4) days later. There is no record of any veterinary examination, wound treatment or antibiotics given.
- m) A cat that was possibly hit by a car with its front right leg missing and its chin degloved was "placed on pain meds" at intake and noted to be re-evaluated after "stray" period. The cat was euthanized ten (10) days after intake. There is no record of any veterinary examination. There are multiple and differing copies of documentation with regard to dates medication given.
- n) A dog that had possibly been hit by a car and noted to have a possible pelvic fracture, unable to use its back legs and large amounts of road rash inside its back legs was "placed on pain meds" at intake. The dog was euthanized six (6) days after intake and there is no record of a veterinary examination during this time period.
- o) A dog was hit by a car and diagnosed with a spinal luxation at T13-L1 by a veterinarian prior to intake at the shelter. This veterinarian placed an intravenous catheter and the animal was

transported to and then accepted for intake at the shelter. During intake it was noted "placed dog on pain meds and monitor thru stray period." The dog was euthanized five (5) days after intake and there is no documentation that the dog received a veterinary examination while at the shelter.

- p) A kitten noted to have a large potential bite wound behind the joint of its front right leg, which appeared broken, was admitted to the shelter. On intake the cat was placed on "pain meds thru stray period." The kitten was euthanized four (4) days after intake. There is no record of a veterinary examination, wound treatment or antibiotics given.
- q) A dog hit by a car with possible internal bleeding, bleeding from penis, swelling in the abominable area, possible broken back left leg and labored breathing was admitted to the shelter. The dog was in the shelter for over two weeks. There is no record of a veterinary examination or antibiotics given during this time.
- r) A dog that was hit by a car and noted to have a broken leg, abrasions on legs and face and gash on front right leg was placed "on pain meds thru stray period" on intake. The dog was returned to his owner on the second day. There is no record of a veterinary examination, wound treatment or antibiotics given.
- s) A dog arrived at the shelter with a temperature of 108.5. There is no record of a veterinary consultation or exam noted. First aid was applied to reduce the dog's temperature to 102.5 wherein it was placed in a kennel. The dog died overnight in the kennel. Records are contradictory on dates and times.
- t) A dog noted to have a possible broken right leg on which it could not walk was placed on pain meds at intake. The dog was euthanized ten (10) days after intake and there was no record of a veterinary examination or antibiotics given.
- u) A cat noted to have a broken back left leg at the knee and an upper respiratory infection was "placed on pain meds thru stray period." Cat was euthanized seven (7) days after intake. Pain medication was only documented for five (5) days. There is no record of any veterinary examination or antibiotics given.
- v) A dog noted to have bite wounds on its face and with a swollen and ruptured scrotum was "placed on pain meds thru stray" period on intake. The dog was euthanized four (4) days after intake. There is no record of any veterinary examination, wound treatment or antibiotics given.
- w) An elderly dog was brought into the shelter by its owner, (no proof of ownership), who wanted it euthanized. The dog was noted to be unable to walk on its own, had alopecia, a distended abdomen, urinating on itself and was bleeding from its rectum. Euthanasia was approved for the dog two (2) days after intake. The dog was not euthanized until four (4) days after intake. There is no record of any veterinary examination during this time period.
- x) A kitten noted to have a possible broken pelvis, unable to stand or use its back legs, no anal tone, no feeling middle back through back legs, and unable to use bathroom was recommended for humane euthanasia on intake. However, the kitten was not euthanized until three (3) days after intake. There is no record of any veterinary examination or any medications given during this time.
- y) A dog noted to have a broken front right leg, swollen, possibly infected and several puncture wounds at intake was placed on "pain meds thru stray period." The dog was euthanized four (4) days after intake. There is no record of any veterinary examination, wound treatment or antibiotics given.
- z) A pregnant dog that was hit by a car and noted to have a possible injury to its hip and possible head trauma was admitted at intake without any pain medication due to pregnancy. On day two of admission the dog vomited up trash. There is no documentation that the dog saw a veterinarian until eight (8) days after intake. A veterinarian performed exploratory surgery and performed humane euthanasia due to possible toxic material ingestion.

- aa) A dog noted to have multiple bite wounds, possible broken front left leg and trouble walking was administered pain medication on intake. The dog was euthanized five (5) days after intake. There is no record of any veterinary examination or antibiotics given.
- bb) A dog noted to have "its eye popped out of its socket" likely due to blunt force trauma and a bite wound on its right ear was placed on pain medication at intake. The dog was euthanized five (5) days after intake. There is no record of any veterinary examination or antibiotics given.
- cc) A dog noted to have three (3) large puncture wounds on his shoulder/chest area, non-weight bearing on his front left leg and in pain. The wound was cleaned and the dog "placed on pain meds thru stray period" at intake. Records noted that the dog was in pain and difficult to examine. This was an owner surrender without proof. The dog was euthanized six (6) days after intake. There is no record of any veterinary examination, wound treatment beyond the initial cleaning or antibiotics given.
- dd) A dog with an open embedded collar wound on the back of its neck was taken into the shelter and at intake was placed on "pain meds thru stray period." The dog was euthanized three (3) days after intake. There is no record of any wound treatment or antibiotics given.
- ee) A dog that was hit by a car and noted to have multiple abrasions, possible broken back leg, and road rash on his back right leg/hip area, around his left eye, on his chest and on knee of back left leg was "placed on pain meds thru stray period." The dog was adopted six and one-half (6 ½) weeks after intake. There is no record of any veterinary examination, wound treatment or antibiotics administration during this time.
- ff) A dog noted to have a large ruptured tumor on his right side was "placed on pain meds thru stray period." Records indicate that there was an emergency medical evaluation on intake; however, the actual record of the emergency medical evaluation could not be located. Records indicate that the dog was surrendered to the shelter as a euthanasia request. The dog was euthanized six (6) days after intake. Records indicate medication was given only one day. There is no record of a veterinary examination.
- gg) A dog on intake was noted to have mange, an abscessed bite wound on his neck, and to feel feverish. He was "placed on pain meds." The dog was euthanized ten (10) days after intake. Pain medication is documented for five (5) days. There is no record of a veterinary examination.
- hh) A dog was brought into the shelter by its owner asking to put the dog to sleep because she appeared to be in pain from what was judged to be general old age issues and may have had recent seizures. The owner had no proof of ownership. The dog was euthanized six (6) days after intake. There is no record of any pain medication administration or veterinary examination.
- ii) A dog noted to have bite wounds on the back of its neck, the start of an embedded collar, and smelled like infection was "placed on pain meds thru stray period" on intake. The dog was surrendered by its owner to the shelter; however, there was no proof of ownership. The dog was euthanized ten (10) days after intake. There is no record of any veterinary examination or antibiotics given.
- jj) A sick kitten was admitted to the shelter and eleven (11) days later was euthanized. Records indicate the kitten had a severe upper respiratory infection. There is no record of a veterinary examination.
- kk) A cat was noted at intake to have been hit by a car one week earlier. It was noted to possibly have a broken leg due to it limping and not putting its full weight on its back left leg. The cat was "placed on pain meds thru stray period." The cat was euthanized five (5) days after intake. There is no record of a veterinary examination.
- ll) A dog on intake was noted to be showing neurologic signs as evidenced by the dog stumbling while walking and wobbling its head. It was noted also to have wounds on its legs and dilated

pupils. The records note on intake "head trauma vs distemper vs rabies vs other neurological issues." The dog was euthanized four (4) days after intake. There is no record of a veterinary examination.

- mm) A cat with a large ruptured abscess on the left side of its neck was turned into the shelter. Staff noted that the cat was feral so they were unable to examine it. The cat was placed on pain medication. The cat was euthanized four (4) days after intake. There is no record of a veterinary examination or antibiotics given.
- nn) A dog was surrendered by its owner to the shelter. The owner did not have proof of ownership. The dog had a large area of hair loss on its face and an embedded collar wound. The dog was "placed on pain meds thru stray" period. The dog was euthanized five (5) days after intake. There is no record of a veterinary examination, any wound treatment or antibiotics given.
- oo) A dog with Cushings disease was surrendered to the shelter by its owner. The records indicate that the dog was unable to use its back legs. The dog was euthanized six (6) days after intake. There is no record of any veterinary examination.
- pp) A cat noted to have severe diarrhea, anus and vagina swollen and raw, and hair under the tail missing was surrendered to the shelter. The record indicates that medication was given for one day. The cat was euthanized eleven (11) days after intake. There is no record of a veterinary examination or treatment given.
- qq) A kitten was taken to the shelter by animal control that appeared to have a bite wound on the top of its head. The wound was noted to be crusted over, but swollen. The kitten was placed on "pain meds thru stray period." The kitten died in its kennel five (5) days after intake. There is no record of a veterinary examination or antibiotics given.
- rr) A dog was surrendered to the shelter by its owner without proof of ownership. The dog was noted to have bite wounds on muzzle and side of face and its right ear was torn and bleeding. The dog was placed on "pain meds thru stray period." The dog was euthanized five (5) days after intake. There is no record of a veterinary examination or antibiotics given.
- ss) A cat with a large wound on top of its head was "placed on pain meds" at intake. The cat was euthanized four (4) days after intake. There is no record of a veterinary examination or antibiotics given.
- tt) A dog noted to have multiple bite wounds all over, some infected, was "placed on pain meds" at intake. The dog was euthanized five (5) days after intake. There is no record of a veterinary examination, wound treatment or antibiotics given.
- uu) A dog with cloudy eyes was taken to the shelter. It was noted to have some very limited sight but acted as though it did not have any depth perception, and was noted as a fall/jump risk. The dog was also noted to have the start of an embedded collar, cutting into its skin, severe matting and fur ripped out. The wounds were noted to be infected. The dog was placed on "pain meds thru stray period." The dog was euthanized four (4) days after intake. There is no record of a veterinary examination, wound treatment or antibiotics given.
- vv) A cat with ulcerated, blood shot, swollen, and protruding eyes was admitted and noted on intake to be painful. The cat was put on "pain meds thru stray period." The cat was euthanized four (4) days after intake. There is no record of any veterinary exam or medications given.
- ww) A dog with a large mammary tumor was taken to the shelter. At intake it was noted that its feet appeared raw and its nails were extremely long and unkempt. The dog's tumor was discovered ruptured the following morning approximately 24 hours after intake. The dog was placed on pain medication "thru stray period." The dog was euthanized five (5) days after intake. There is no record of a veterinary examination.
- xx) A stray cat was taken to the shelter. It was noted on the day of intake that it appeared to have an old break to its jaw, bottom jaw was degloved and the left side of its face was hard and

- swollen where the jaw connects. The cat was "placed on pain meds thru stray period." The cat was euthanized seven (7) days after intake. There is no record of a veterinary examination or medications given daily.
- yy) A dog was taken to the shelter and noted to have a hole in its chest that appeared to be a fresh bite wound. The dog was placed on "pain meds thru stray period" at intake. The dog was euthanized four (4) days after intake. There is no record of a veterinary examination or antibiotics given.
- zz) A kitten was surrendered to the shelter by its owner without proof of ownership. Records indicate that the cat had symptoms of an upper respiratory infection and conjunctivitis. The cat was euthanized eight (8) days after intake. There is no record of a veterinary examination or medication given.
- aaa) A stray cat was brought to the shelter with the left side of its face noted to be extremely swollen and hard and a probable tumor. On intake it was also noted that the cat's eye was protruding, although not completely. The cat was noted to be drinking and eating. The cat was placed on "pain meds thru stray period." The cat was euthanized six (6) days after intake. There is no record of a veterinary examination or antibiotics given.
- bbb) A cat that had possibly been hit by a car was brought to the shelter. It was noted to have an abrasion on its chin and its back left leg was possibly broken or dislocated. It is noted that no open wounds were seen and movement fine otherwise. It was placed on "pain meds thru stray period." The cat was euthanized eight (8) days after intake. There is no record of a veterinary examination.
- ccc) A dog that had been in a dog fight was surrendered to the shelter. It was noted on intake to have bite wounds below its right eye and on its neck. It was "placed on pain meds thru stray period" at intake. The dog was euthanized seventeen (17) days after intake. There is no record of a veterinary examination, wound treatment or antibiotics given.
- ddd) A kitten was brought to the shelter with an abscessed bite wound that was swollen and infected. The kitten was placed on "pain meds thru stray period" at intake. The cat was euthanized five (5) days after intake. There is no record of a veterinary examination or antibiotics given.
- eee) A cat on intake was noted to have "a worble in hole on neck." Shelter staff noted that it pulled the worble out but the wound was infected. The cat was "placed on pain meds thru stray period" and the wound was flushed out. The cat was found dead in its kennel six (6) days after intake. There is no record of a veterinary examination or antibiotics given.
- fff) A dog was brought into the shelter and noted to be very aggressive so that staff was only able to do a cursory examination. Records indicate the dog had a large wound over its right hip area. Records indicate "place dog inside on pain meds then re-evaluate after stray period." The dog was euthanized twelve (12) days after intake. There is no record of a veterinary examination or antibiotics given.
- ggg) Upon intake to the shelter it was noted that a cat appeared hypoglycemic. It was also noted to be emaciated, and have symptoms of conjunctivitis and an upper respiratory infection. The cat was euthanized eleven (11) days after intake. There is no record of a veterinary examination or any medications given.
- hhh) A cat noted to have with neurological symptoms of head bobbles and possibly hypoglycemic was admitted to the shelter. It was euthanized seven (7) days after intake. There is no record of a veterinary examination or any medication given.
- iii) A stray dog was brought into the shelter covered in bite wounds. Some were noted to be new and some as healed. The dog was also noted to have a gash on his back left leg. The dog was "placed on pain meds thru stray period." The dog was euthanized four (4) days after intake. There is no record of a veterinary examination, wound treatment or antibiotics given.

- jjj) A dog was brought to the shelter with multiple bite wounds noted to be both old and new. The dog was noted to have a swelling on the right side of its face, was emaciated, and had a hematoma on its right ear. The dog was also noted on intake to have a swollen abdomen and its mouth smelled of infection. The dog was placed on "pain meds through stray period." The dog was euthanized five (5) days after intake. There is no record of a veterinary examination, wound treatment or antibiotics given.
- kkk) A dog was surrendered to the shelter without proof of ownership. On intake it was noted that the dog could not walk and had severe hip dysplasia. The dog was euthanized four (4) days after intake. There is no record of a veterinary examination or any pain medications given.
- lll) A kitten was brought to the shelter with its back left leg swollen from unknown trauma. It is noted that the leg could possibly be broken. The kitten was "placed on pain meds thru stray period." The day after intake it was also noted that the bite wounds had ruptured. There is no record of a veterinary examination or antibiotics given.
- mmm) A dog with a possible broken back right leg was brought to the shelter. It is noted that the dog had puncture on the inside of his right leg and his abdomen was scraped and bruised. It is further noted that the dog would be kept "on pain medication through stray period." The dog was euthanized three (3) days after intake. There is no record of a veterinary examination or a medical log.

3. Dr. Norris' review of UAC records on August 11, 2015 found the following instances of failure to rabies vaccinate an animal by day 15 from intake:

- a) An adult cat was housed for twenty (20) days without a rabies vaccination being administered.
- b) A young adult dog was housed for twenty-two (22) days without a rabies vaccination being administered.
- c) An adult dog was housed for twenty-two (22) days without a rabies vaccination being administered.
- d) A dog was housed for six and a half (6 ½) months before a rabies vaccination was administered.
- e) An adult dog was housed for two (2) months before a rabies vaccination was administered.

CONCLUSIONS

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, finds that you either by act or omission, violated the following provisions the North Carolina Administrative Codes:
02 NCAC 52J .0210 (c) and (d).

- a) 02 NCAC 52J .0210 (c) – 66 violations
- b) 02 NCAC 52J .0210 (d) – 5 violations

(See Appendix for text of cited General Statutes and Administrative Codes)

CIVIL PENALTIES

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly the United Animal Coalition is assessed a civil penalty. The amount of the penalty for each violation is detailed below:

66 violations of 02 NCAC 52J .0210 (c)

- 1) \$5,000.00 for failure to provide adequate veterinary care for 4 days to the dog as noted in Findings of Fact subparagraph 1;
- 2) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (a);
- 3) \$5,000.00 for failure to provide adequate veterinary care for 7 days to the cat noted in Findings of Fact subparagraph 2 (b);
- 4) \$5,000.00 for failure to provide adequate veterinary care for 12 days to the dog noted in Findings of Fact subparagraph 2 (c);
- 5) \$5,000.00 for failure to provide adequate veterinary care for 6 days to the dog noted in Findings of Fact subparagraph 2 (d);
- 6) \$1,000.00 for failure to provide adequate veterinary care for 1 day to the cat noted in Findings of Fact subparagraph 2 (e);
- 7) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (f);
- 8) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the kitten noted in Findings of Fact subparagraph 2 (g);
- 9) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (h);
- 10) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the cat noted in Findings of Fact subparagraph 2 (i);
- 11) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the cat noted in Findings of Fact subparagraph 2 (j);
- 12) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the cat noted in Findings of Fact subparagraph 2 (k);
- 13) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the cat noted in Findings of Fact subparagraph 2 (l);
- 14) \$5,000.00 for failure to provide adequate veterinary care for 10 days to the cat noted in Findings of Fact subparagraph 2 (m);
- 15) \$5,000.00 for failure to provide adequate veterinary care for 6 days to the dog noted in Findings of Fact subparagraph 2 (n);
- 16) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (o);

- 17) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the kitten noted in Findings of Fact subparagraph 2 (p);
- 18) \$5,000.00 for failure to provide adequate veterinary care for 14 days to the dog noted in Findings of Fact subparagraph 2 (q);
- 19) \$2,000.00 for failure to provide adequate veterinary care for 2 days to the dog noted in Findings of Fact subparagraph 2 (r);
- 20) \$1,000.00 for failure to provide adequate veterinary care for 1 day to the dog noted in Findings of Fact subparagraph 2 (s);
- 21) \$5,000.00 for failure to provide adequate veterinary care for 10 days to the dog noted in Findings of Fact subparagraph 2 (t);
- 22) \$5,000.00 for failure to provide adequate veterinary care for 7 days to the cat noted in Findings of Fact subparagraph 2 (u);
- 23) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (v);
- 24) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (w);
- 25) \$3,000.00 for failure to provide adequate veterinary care for 3 days to the kitten noted in Findings of Fact subparagraph 2 (x);
- 26) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (y);
- 27) \$5,000.00 for failure to provide adequate veterinary care for 8 days to the dog noted in Findings of Fact subparagraph 2 (z);
- 28) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (aa);
- 29) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (bb);
- 30) \$5,000.00 for failure to provide adequate veterinary care for 6 days to the dog noted in Findings of Fact subparagraph 2 (cc);
- 31) \$3,000.00 for failure to provide adequate veterinary care for 3 days to the dog noted in Findings of Fact subparagraph 2 (dd);
- 32) \$5,000.00 for failure to provide adequate veterinary care for 42 days to the dog noted in Findings of Fact subparagraph 2 (ee);
- 33) \$5,000.00 for failure to provide adequate veterinary care for 6 days to the dog noted in Findings

of Fact subparagraph 2 (ff);

34) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (gg);

35) \$5,000.00 for failure to provide adequate veterinary care for 6 days to the dog noted in Findings of Fact subparagraph 2 (hh);

36) \$5,000.00 for failure to provide adequate veterinary care for 10 days to the dog noted in Findings of Fact subparagraph 2 (ii);

37) \$5,000.00 for failure to provide adequate veterinary care for 11 days to the kitten noted in Findings of Fact subparagraph 2 (jj);

38) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the cat noted in Findings of Fact subparagraph 2 (kk);

39) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (ll);

40) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the cat noted in Findings of Fact subparagraph 2 (mm);

41) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (nn);

42) \$5,000.00 for failure to provide adequate veterinary care for 6 days to the dog noted in Findings of Fact subparagraph 2 (oo);

43) \$5,000.00 for failure to provide adequate veterinary care for 11 days to the cat noted in Findings of Fact subparagraph 2 (pp);

44) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the kitten noted in Findings of Fact subparagraph 2 (qq);

45) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (rr);

46) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the cat noted in Findings of Fact subparagraph 2 (ss);

47) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (tt);

48) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (uu);

49) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the cat noted in Findings of Fact subparagraph 2 (vv);


- 50) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (ww);
- 51) \$5,000.00 for failure to provide adequate veterinary care for 7 days to the cat noted in Findings of Fact subparagraph 2 (xx);
- 52) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (yy);
- 53) \$5,000.00 for failure to provide adequate veterinary care for 8 days to the kitten noted in Findings of Fact subparagraph 2 (zz);
- 54) \$5,000.00 for failure to provide adequate veterinary care for 6 days to the cat noted in Findings of Fact subparagraph 2 (aaa);
- 55) \$5,000.00 for failure to provide adequate veterinary care for 8 days to the cat noted in Findings of Fact subparagraph 2 (bbb);
- 56) \$5,000.00 for failure to provide adequate veterinary care for 17 days to the dog noted in Findings of Fact subparagraph 2 (ccc);
- 57) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the kitten noted in Findings of Fact subparagraph 2 (ddd);
- 58) \$5,000.00 for failure to provide adequate veterinary care for 6 days to the cat noted in Findings of Fact subparagraph 2 (eee);
- 59) \$5,000.00 for failure to provide adequate veterinary care for 12 days to the dog noted in Findings of Fact subparagraph 2 (fff);
- 60) \$5,000.00 for failure to provide adequate veterinary care for 11 days to the cat noted in Findings of Fact subparagraph 2 (ggg);
- 61) \$5,000.00 for failure to provide adequate veterinary care for 7 days to the cat noted in Findings of Fact subparagraph 2 (hhh);
- 62) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (iii);
- 63) \$5,000.00 for failure to provide adequate veterinary care for 5 days to the dog noted in Findings of Fact subparagraph 2 (jjj);
- 64) \$4,000.00 for failure to provide adequate veterinary care for 4 days to the dog noted in Findings of Fact subparagraph 2 (kkk);
- 65) \$1,000.00 for failure to provide adequate veterinary care to the kitten noted in Findings of Fact subparagraph 2 (lll); and
- 66) \$3,000.00 for failure to provide adequate veterinary care for 3 days to the dog noted in Findings of Fact subparagraph 2 (mmm).

5 violations of 02 NCAC 52J .210 (d)

- 1) \$200.00 for failure to provide rabies vaccination within 15 days for the cat noted in Findings of Fact subparagraph 3 (a);
- 2) \$200.00 for failure to provide rabies vaccination within 15 days for the dog noted in Findings of Fact subparagraph 3 (b);
- 3) \$200.00 for failure to provide rabies vaccination within 15 days for the dog noted in Findings of Fact subparagraph 3 (c);
- 4) \$200.00 for failure to provide rabies vaccination within 15 days for the dog noted in Findings of Fact subparagraph 3 (d); and
- 5) \$200.00 for failure to provide rabies vaccination within 15 days for the dog noted in Findings of Fact subparagraph 3 (e).

\$290,000.00 TOTAL AMOUNT ASSESSED

11/16/2015
Date



Patricia Norris, DVM
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0210 VETERINARY CARE

- (a) A written program of veterinary care to include disease control and prevention, vaccination, euthanasia, and adequate veterinary care shall be established with the assistance of a licensed veterinarian by any person who is required to be licensed or registered under the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes.
- (b) If there is a disease problem that persists for more than 30 days at the facility, the facility operator shall obtain and follow a veterinarian's written recommendations for correcting the problem.
- (c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.
- (d) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. March 23, 2009; January 1, 2005.

Exhibit 2

**November 16, 2015
Davidson County Shelter
Civil Penalty Assessment**



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

November 16, 2015

A. Scott Jackson
Registered Agent
United Animal Coalition
701 Green Valley Road
Suite 100
Greensboro, NC 27409

NOTICE OF CIVIL PENALTY

**Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N. C.
ADMINISTRATIVE CODE, CHAPTER 52J, SECTION .0210 (b) and (c).
Facility: Davidson County Animal Shelter**

Dear Mr. Jackson:

Pursuant to N. C. General Statute § 19A-40 I am issuing this notice to you that the United Animal Coalition is assessed a civil penalty of \$10,000.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N. C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment of filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("OAH"). Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

UNITED ANIMAL COALITION DBA
DAVIDSON COUNTY ANIMAL SHELTER

)
) NOTICE OF VIOLATIONS
) ASSESSMENT OF CIVIL PENALTY
)
) FOR VIOLATIONS OF
) 02 NCAC 52J .0210 (b) and (c)

Acting pursuant to N.C. Gen. Stat. § 19A-30, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. On June 11, 2015, Dr. Patricia Norris, Director, AWS, NCDA&CS conducted a complaint investigation, including a records review, on the premises of the United Animal Coalition DBA Davidson County Animal Shelter ("UAC"), located at 490 Glendale Road, Lexington, NC, concerning the lack of care of a severely injured dog. Dr. Norris' review of UAC records included review of UAC's Annual Program of Veterinary Care dated April 27, 2015 that was submitted to AWS with its license application. UAC's Annual Program of Veterinary Care indicated that "[a]ll ill or injured animals are removed from the general public and placed in our sick isolation areas. Veterinary Technicians provide medication prescribed by our veterinarian as she directs. **Any severely ill or injured animals are taken to outside veterinarians for immediate evaluation and veterinarians' recommendations and protocol are followed.**" (emphasis added) Dr. Norris' findings are as follows:

- a) The investigation of the records revealed that on intake the dog was noted to appear paralyzed from the shoulders down and possibly have a broken back. It was also noted that the dog was placed on "pain meds thru stray period." The dog was euthanized three (3) days after intake. There is no record of a veterinary examination.
 - b) By the date of the investigation, the dog had already been euthanized.
2. On August 13, 2015, Dr. Norris returned to the shelter to continue her complaint investigation. Dr. Norris' review of UAC records again included review of UAC's Annual Program of Veterinary Care. Dr. Norris' review of UAC records revealed the following:
- a) In January 2015 nine (9) animals were found dead in their kennels. Five (5) of these were dogs and four (4) were cats.
 - b) In February 2015 twenty-three (23) animals were found dead in their kennels. Five (5) of these were dogs and nineteen (19) were cats.
 - c) In March 2015 nine (9) animals were found dead in their kennels. Five (5) of these were dogs and four (4) were cats.
 - d) In April 2015 forty-seven (47) animals were found dead in their kennels. Four (4) of these were dogs and forty-three (43) were cats. From April 1-14, 2015 there were seven (7) deaths. From April 15-30, there were forty (40) deaths.
 - e) In May 2015 ninety-six (96) animals were found dead in their kennels. Five (5) of these were dogs and ninety-one (91) were cats.

- f) In June 2015 ninety-one (91) animals were found dead in their kennels. Five (5) of these were dogs and eighty-six (86) were cats.
- g) In July 2015 ninety-two (92) animals were found dead in their kennels. Fourteen (14) of these were dogs and seventy-eight (78) were cats.
- h) From August 1-12, 2015 thirty-eight (38) animals were found dead in their kennels. Four (4) of these were dogs and thirty-four (34) were cats.

3. Review of the euthanasia records for the shelter from May 1 through August 13, 2015 revealed an overwhelming number of euthanasias due to moderate to severe medical reasons and/or contagious disease.

4. No written program for disease control written by a veterinarian could be located that addressed this apparent disease problem.

CONCLUSIONS

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, finds that you either by act or omission, violated the provisions the North Carolina Administrative Code 52J .0210 (b) and (c).

(See Appendix for text of cited General Statutes and Administrative Codes)

CIVIL PENALTIES


As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly the United Animal Coalition is assessed a civil penalty. The amount of the penalty for each violation is detailed below:

- 1) \$5,000.00 for failure to provide adequate veterinary care to the dog noted in Findings of Fact, Section 1; and
- 2) \$5,000.00 for failure to obtain and follow a veterinarian's written recommendation for correcting a disease problem that persisted for more than 30 days at the facility.

\$10,000.00 TOTAL AMOUNT ASSESSED

11/16/2015
Date


Patricia Norris, DVM
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0210 VETERINARY CARE

- (a) A written program of veterinary care to include disease control and prevention, vaccination, euthanasia, and adequate veterinary care shall be established with the assistance of a licensed veterinarian by any person who is required to be licensed or registered under the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes.
- (b) If there is a disease problem that persists for more than 30 days at the facility, the facility operator shall obtain and follow a veterinarian's written recommendations for correcting the problem.
- (c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.
- (d) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. March 23, 2009; January 1, 2005.

Exhibit 3

UAC Articles of Dissolution



NORTH CAROLINA

Department of the Secretary of State

To all whom these presents shall come, Greetings:

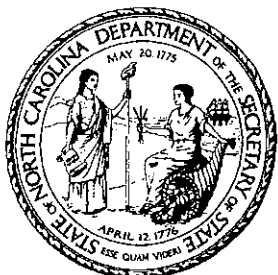
I, Elaine F. Marshall, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF DISSOLUTION

OF

UNITED ANIMAL COALITION, INC.

the original of which was filed in this office on the 16th day of June, 2016.



Scan to verify online.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 16th day of June, 2016.

Elaine F. Marshall

Secretary of State

ARTICLES OF DISSOLUTION
OF
UNITED ANIMAL COALITION, INC.

Pursuant to Chapter 55A and §55A-14-04 of the General Statutes of North Carolina, the undersigned hereby submits these Articles of Dissolution for the purpose of dissolving UNITED ANIMAL COALITION, INC., a North Carolina nonprofit corporation (the "Corporation");

1. The name of the Corporation is UNITED ANIMAL COALITION, INC.
2. The Corporation's Articles of Incorporation were filed with the Secretary of State of North Carolina on September 14, 1998, and were later amended on June 16, 2016 by filing Articles of Amendment with the Secretary of State of North Carolina. There have been no further amendments to such Articles of Incorporation.
3. The names, titles, and addresses of the officers of the Corporation are:

Carolyn Cudd, President
4525 West Wendover Avenue, Greensboro, NC 27409
4. The names and addresses of all of the directors of the Corporation are:

Carolyn Cudd
4525 West Wendover Avenue, Greensboro, NC 27409

John Nieman
4525 West Wendover Avenue, Greensboro, NC 27409

Carol Tuggle
4525 West Wendover Avenue, Greensboro, NC 27409
5. A copy of the Plan of Dissolution required by Section 55A-14-04 of the General Statutes of North Carolina is attached hereto as Exhibit A, and is hereby expressly incorporated herein.
6. The dissolution of the Corporation was authorized on the 17th day of May, 2016.
7. The dissolution of the Corporation was authorized by the unanimous approval of the Board of Directors of the Corporation. The Corporation has no members, and therefore member approval pursuant to Section 55A-14-02 was not required.
8. These Articles of Dissolution shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand and seal on this the 17 day of May, 2016.

UNITED ANIMAL COALITION, INC.

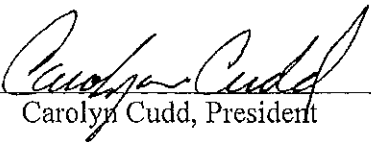
By:  (SEAL)
Carolyn Cudd, President

Exhibit A

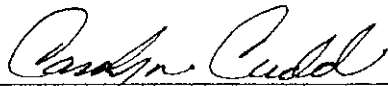
**PLAN OF DISSOLUTION
OF
UNITED ANIMAL COALITION, INC.**

May 17, 2016

The following Plan of Dissolution was approved by the Board of Directors of UNITED ANIMAL COALITION, INC., a North Carolina nonprofit corporation (the "Corporation"), pursuant to §55A-14-03 of the North Carolina Nonprofit Corporation Act:

- (1) The officers of the Corporation shall sell or otherwise liquidate any and all of the assets of the Corporation, and shall execute deeds, bills of sale and other documents that may be necessary or appropriate to effect such sale or liquidation; and
- (2) The Corporation shall pay or discharge all of its liabilities and obligations, or adequate provision will be made therefore; and
- (3) Any assets held by the Corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution of the Corporation, shall be returned, transferred or conveyed in accordance with such requirements; and
- (4) All remaining assets of the Corporation shall be transferred or conveyed to one or more public charities that qualify as an exempt organization as described in Internal Revenue Code 501(c)(3) of 1986, as amended, or shall be distributed to the federal government, or to a state or local government, for a public purpose.

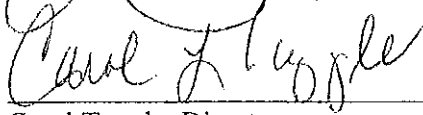
This Plan of Dissolution is effective as of the day and year first above written.



Carolyn Cudd, Director



John Nieman, Director



Carol Tuggle, Director

006638/65359 DOC # 01270233

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 5th day of January 2016 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as either the "Department" or the "Animal Welfare Section"), and the Yancey County Humane Society North Animal Shelter, located at 962 Cane River School Road, Burnsville, North Carolina 28714, an agency of Yancey County Humane Society, North Carolina (hereinafter referred to as the "Yancey County Humane Society Animal Shelter" or the "Shelter").

R E C I T A L S

WHEREAS, on December 11, 2015, the Department assessed the Yancey County Humane Society Animal Shelter a civil penalty in the amount of One Thousand, Two Hundred Dollars (\$1,200.00) as a result of the Department's discovery of evidence indicating that the Shelter had violated North Carolina General Statute § 19A-32.1(a) and 02 North Carolina Administrative Code 52J .0101(5) and .0209(5); and

WHEREAS, on December 11, 2015, the Department issued the Yancey County Humane Society Animal Shelter a written Civil Penalty Assessment which, among other things, described in detail the evidence referred to in the preceding paragraph of this Agreement; and

WHEREAS, a true and correct copy of the December 11, 2015 written Civil Penalty Assessment is attached hereto as Exhibit 1 and is incorporated by reference in this Agreement; and

WHEREAS, the Yancey County Humane Society Animal Shelter disputes certain aspects of the December 11, 2015 written Civil Penalty Assessment; and

WHEREAS, the Yancey County Humane Society Animal Shelter has the right to contest the December 8, 2015 written Civil Penalty Assessment by filing a petition for a contested case hearing in the North Carolina Office of Administrative Hearings; and

WHEREAS, the parties recognize that litigating the December 11, 2015 written Civil Penalty Assessment would be expensive and time-consuming; and

WHEREAS, the Yancey County Humane Society Animal Shelter and the Department desire to fully and finally compromise and settle this and all other disputes and controversies between them involving the Department's December 11, 2015 assessment of a civil penalty against the Yancey County Humane Society Animal Shelter; and

WHEREAS, the Yancey County Humane Society Animal Shelter and the Department desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department and the Yancey County Humane Society Animal Shelter agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by reference as if fully set forth herein.

2. The Yancey County Humane Society Animal Shelter has developed and submitted to the Animal Welfare Section written proposed policies and procedures detailing a program to ensure compliance with the minimum holding period required by N. C. General Statute §19A-32.1. The Yancey County Humane Society Animal Shelter has also developed and submitted to the Animal Welfare Section written proposed policies and procedures detailing the isolation of ill animals, proper signage of isolation areas and the keeping of proper medication logs. These policies and procedures are attached as Exhibit 2.

3. The Director of the Animal Welfare Section has approved the written policies and procedures attached as Exhibit 2 to this Agreement.

4. The Yancey County Humane Society Animal Shelter agrees to implement and abide by these policies and procedures in the operation of the shelter. The Yancey County Humane Society agrees, beginning no later than thirty (30) calendar days after the date this Agreement is signed by the Yancey County Humane Society Animal Shelter, to provide training to every Yancey County Humane Society Animal Shelter staff member concerning the policies and procedures attached as Exhibit 2 to this Agreement. The Yancey County Humane Society Animal Shelter agrees to provide documentation of this training and the names of all training participants and attendees to the Animal Welfare Section within 14 days of the completion of the training.

5. By no later than February 26, 2016, the Yancey County Humane Society Animal Shelter shall pay the Department the sum of six hundred dollars (\$600.00).

6. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

7. The parties agree to act in good faith in the implementation of this Agreement.
8. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.
9. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.
10. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.
11. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.
12. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.
13. This Agreement shall be binding in perpetuity upon and shall inure to the benefit of the parties, their agents, officers, employees, successors, assigns, heirs, executors and administrators.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

THE NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION, ANIMAL WELFARE
SECTION

By:  _____

Patricia Norris, DVM MS
Director, Animal Welfare Section, North Carolina
Department of Agriculture and Consumer Services

Date: 2/18/2014

THE YANCEY COUNTY HUMANE SOCIETY,
NORTH CAROLINA ANIMAL SERVICES
SHELTER

By: Renee Tomberlin

Renee Tomberlin

County Manager, Yancey County Humane Society,
North Carolina

Date: 2/13/16

Exhibit 1

**(December 11, 2015 Written Notice of Civil Penalty
Assessment)**



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

December 11, 2015

Renee Tomberlin
Shelter Director
Yancey County Humane Society
962 Cane River School Road
Burnsville, NC 28714

NOTICE OF CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF N. C. GENERAL STATUTE §19A-32.1(a) and TITLE 02 N. C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0101(5) and .0209(5).

Facility: Yancey County Humane Society Animal Shelter

Dear Ms. Tomberlin:

Pursuant to N. C. General Statute § 19A-40 I am issuing this notice to you that the Yancey County Humane Society is assessed a civil penalty of \$1200.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N. C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Norris', with a stylized flourish at the end.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

YANCEY COUNTY HUMANE SOCIETY

ANIMAL SHELTER

) NOTICE OF VIOLATIONS
) ASSESSMENT OF CIVIL PENALTY
) FOR VIOLATIONS OF N. C. GENERAL
) STATUTE §19A-32.1(a) and 02 NCAC
) 52J .0101(5) and .0209(5)
)

Acting pursuant to N.C. Gen. Stat. § 19A-30, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. On October 27 and 28, 2015, AWS received complaints concerning the Yancey County Humane Society Animal Shelter ("the shelter").
2. AWS opened an investigation and on November 10, 2015, AWS Animal Health Technician Joshua James ("Inspector James") conducted a site visit of the shelter. As part of the site visit, Inspector James conducted staff interviews and a records review.
3. The investigation and interviews with the shelter staff revealed the following:
 - a) At the time of the site visit, no cats or kittens were showing signs of illness;
 - b) On October 27, 2105, the shelter director was removed from his position and an interim director was hired;
 - c) No medication logs for treatments prior to October 27, 2015 could be located by the current staff;
 - d) During their interviews, staff who were present during the time period mentioned in the complaint attested that there was an outbreak of disease in one of the communal rooms that lasted less than 30 days;
 - e) Staff members indicated that it is standard procedure for animals showing signs of communicable disease to be moved into the isolation areas, but in this case, as all of the animals were deemed to have been exposed, the entire room was quarantined. The room was closed to new intakes and all exposed animals were placed on medications for upper respiratory infections; and
 - f) The staff indicated that the windows of this communal room were covered during the quarantine period, but signage giving notice of a communicable disease was not posted.
4. The review of the shelter records revealed:
 - a) 12 kittens were found dead in their kennel/enclosure between June 1, 2015 and November 10, 2015; and
 - b) 6 stray cats were euthanized prior to the end of the 72 hour minimum holding period.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Norris', with a stylized flourish at the end.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

(5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

(5) All facilities shall designate an isolation area for animals being treated or observed for communicable diseases. Dogs or cats in isolation that are being treated for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease. A sign shall be posted at the cage or isolation area when in use, giving notice of a communicable disease.

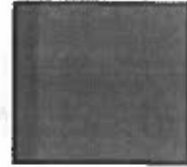
History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005.

Exhibit 2

**(Policies and Procedures Submitted by Yancey County
Humane Society Animal Shelter, January 5, 2016 with
Revised Medication Log Submitted January 21, 2016)**

YANCEY HUMANE SOCIETY

P.O. Box 1016
Burnsville, NC 28714
828-682-9510
vchs@ccvn.com



January 5, 2016

North Carolina Department of Agriculture
And Consumer Services
Veterinary Division

1030 Mail Service Center
Raleigh, NC 27699-1030

Att: Patricia Norris, DVM
Director, Animal Welfare Division

Re: Notice of Civil Penalty

Dear Dr. Norris,

Thank you for your time and patience with our agency and with me in particular regarding this matter.

As you know, I have received and read the letter of December 11, 2015 outlining the issues and the civil penalties. I feel we have taken the appropriate steps to correct these deficiencies and would like to enter into a settlement agreement to mitigate the civil penalty.

The deficiencies as noted were:

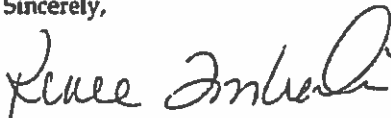
- 1) *Lack of proper signage indicating a communicable disease in the kitten sick room.* Enclosed you will find the page from the new policies and procedures manual which I am currently developing regarding this issue. There is a placard on the door of the isolation feline room and I have directed the staff to always place sick cats and kittens in this room in the future. This room has a bank of stainless steel kennels. As a general rule we will no longer treat an entire feline room in the adoption hallway. In the case of an extreme emergency, and if there is no other option and we do have to treat an entire room, the room will be closed to all persons except one staff member who will clean, medicate and care for that room. The storm door will be covered and proper signage will be posted on that door. Again, we will only do those when all isolation kennels are full and only to prevent unnecessary euthanasia.



- 2) *Medication Logs were not kept after completion.* Again, this issue is addressed on the pages from the policies and procedures manual in development. Medication logs have always been kept, but unfortunately were not filed once they were turned into the director by kennel staff. Our new policy is that the logs, once medication is completed, are given to the kennel manager who transcribes the information on to the individual medical records of the animal. The logs are then given to the director for filing. Logs will be kept for a minimum of one year. A sample of a medication log is included in this correspondence.
- 3) *72- hour minimum holding period was violated.* I have included a copy of the move-up table that we are now using for all animals moving from intake to adoption or euthanasia. These will become part of the policies and procedures manual and are posted at the entrance to the intake areas for canines and felines. We have chosen to go beyond the 72- hour rule for canines and will be using a 72 "open hours" rule in order to increase the possibility of owners reuniting with lost canines. We will use the 72- hours from time of intake rule for felines since, in our experience, the majority of our feline intake is stray or feral. Instructions on how to safely handle feral cats during this period are posted on this chart.

I hope this adequately addresses the concerns and hope that we can work together to insure there are no further issues. I can be reached at any time at 828-776-1845 or at the shelter at 828-682-9510 after noon every day except Sunday and Wednesday.

Sincerely,



Renee Tomberlin, Director

Yancey Humane Society

MOVE UP TABLE FOR ALL CATS AND KITTENS IN INTAKE

Note: All cats and kittens must be held for 72 hours from the time they came into the shelter. This does not have to be "business days." If a feral cat is too dangerous to move from kennel to kennel, you can leave it in the kennel and just make sure it has plenty of food and water. If you can safely remove the litter box for cleaning, do so. If a cat or kitten is severely injured or suffering, let the director know and a decision can be made about euthanasia. Never make that decision alone!

CAME IN:

MOVE UP/EUTHANIZE:

MONDAY

THURSDAY

TUESDAY

FRIDAY

THURSDAY

SUNDAY

FRIDAY

MONDAY

SATURDAY

TUESDAY

Renee Imberlin, Director

MOVE UP TABLE FOR ALL CANINES IN INTAKE

Note: We will continue to use the 3 “business/open” days for dogs. The following table will apply. However, please check with the director before moving up young puppies. We will typically keep them in intake until they have had at least 2 series of shots and are old enough for their spay/neuter.

CAME IN:

MOVE UP:

MONDAY

SATURDAY

TUESDAY

MONDAY

WEDNESDAY

MONDAY

THURSDAY

TUESDAY

FRIDAY

THURSDAY

SATURDAY

FRIDAY

SUNDAY

FRIDAY

Renee Imberlin, Director

PROCEDURES FOR SICK ANIMALS

ALL SICK ANIMALS SHALL BE IMMEDIATELY ISOLATED FROM THE GENERAL POPULATION! KENNEL TECHS ARE ALWAYS ALLOWED TO MOVE AN ANIMAL TO ISOLATION WITHOUT MANAGEMENT APPROVAL. HOWEVER, ANIMALS SHOULD NOT BE MOVED BACK INTO GENERAL POPULATION WITHOUT THE DIRECTOR'S APPROVAL.

ALL MEDICATIONS WILL BE PRESCRIBED AND DISTRIBUTED ONLY WITH THE DIRECTOR'S APPROVAL.

DOGS:

SICK DOGS ARE TO BE KENNELED IN THE DOG ISOLATION AREA AND THEIR NAMES AND DIAGNOSES SHOULD BE CLEARLY LABELED ON THE WHITE BOARD IN THE ISO AREA. THE DOOR TO THE ISOLATION AREA SHOULD BE SHUT AT ALL TIMES AND NO ONE SHOULD USE THE STORM DOOR BETWEEN INTAKE AND ISOLATION WHEN DOGS ARE KENNELED IN THE ISO AREA.

MEDICAL LOGS ARE TO BE KEPT IN THE PREP ROOM ON THE CLIPBOARD WHEN ACTIVE AND SHOULD BE GIVEN TO THE KENNEL MANAGER FOR TRANSCRIPTION ON TO INDIVIDUAL ANIMAL MEDICAL RECORDS WHEN COMPLETE. KENNEL MANAGER WILL THEN GIVE MEDICAL LOGS TO DIRECTOR FOR CENTRAL FILING. LOGS WILL BE KEPT FOR A MINIMUM OF 2 YEARS.

CATS:

ALL SICK CATS WILL BE KENNELED IN THE ISOLATION KENNELS. THE DOOR TO THE ISOLATION ROOM SHOULD BE KEPT CLOSED AT ALL TIMES. CATS SHOULD NOT SHARE A KENNEL UNLESS THERE IS ABSOLUTELY NO OTHER ROOM. IN THIS SITUATION, MAKE EVERY EFFORT TO BE SURE THAT CATS ARE OF THE SAME APPROXIMATE AGE AND THAT THEIR LEVEL OF SICKNESS IS AS SIMILAR AS POSSIBLE. MEDICAL LOGS ARE TO BE KEPT FOR EACH INDIVIDUAL CAT/KITTEN AND SHOULD BE GIVEN TO THE KENNEL MANAGER FOR TRANSCRIPTION ON TO INDIVIDUAL MEDICAL RECORDS WHEN COMPLETE. KENNEL MANAGER WILL THEN GIVE MEDICAL LOGS TO DIRECTOR FOR CENTRAL FILING. RECORDS WILL BE KEPT FOR A MINIMUM OF 2 YEARS.

IF IT BECOMES NECESSARY TO TREAT AN ENTIRE ROOM SUCH AS THE THIRD KITTEN ROOM, THEN THE ROOM SHALL BE CLOSED TO ALL ACCESS OTHER THAN STAFF WHEN CLEANING AND GIVING MEDICATION. A SIGN INDICATING THAT THE ROOM IS BEING TREATED SHALL BE POSTED ON THE DOOR AND CLEARLY STATE THAT THE ROOM IS QUARANTINED AND THAT NO ADMITTANCE IS ALLOWED. THIS SHOULD BE A LAST RESORT AND USED ONLY WHEN THE STAINLESS ISOLATION KENNELS ARE COMPLETELY FULL.

SIGNED: _____

Renee Imbriani, Director

YHS Medication Log

Animal Name			15-563			
Date	AM Dose Given By	PM Dose Given By	Medication Prescribed	Dosage Strength	Directions	
12/24/15	ES	ET	Clavamox	1/4 dropper	2x daily until finished	
1/25/16	ET	ET				
1/26/16	SM	SM				
1/27/16	MT	MT				
1/28/16	PR	ET				
1/29/16	PR	ET				
1/30/16	MT	SM				
1/31/16	ET	ET				
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Medication Log

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